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**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
SOUTHERN DIVISION**

PINN, INC., v. APPLE INC.,	Plaintiff, Defendant.	Case No. 8:19-cv-01805-DOC-JDE SUPERSEDING STIPULATED PROTECTIVE ORDER
PINN, INC., v. GOOGLE, LLC	Plaintiff, Defendant.	Case No. 8:19-cv-01840-DOC-JDE SUPERSEDING STIPULATED PROTECTIVE ORDER
PINN, INC., v. SAMSUNG ELECTRONICS AMERICA, INC.,	Plaintiff, Defendant.	Case No. 8:19-cv-01856-DOC-JDE SUPERSEDING STIPULATED PROTECTIVE ORDER District Judge: David O. Carter Magistrate Judge: John D. Early

Pursuant to the Stipulation (“Stipulation”) of Plaintiff Pinn, Inc. (“Pinn”) and Defendants Apple Inc. (“Apple”), Google LLC (“Google”), and Samsung Electronics America, Inc. (“Samsung”), hereafter collectively referred to as “the Parties,” in Case Nos. 8:19-cv-01805-DOC-JDE (Dkt. 67, superseding Dkt. 63 from the date of this Order), 8:19-cv-01840-DOC-JDE (no stipulation involving the Parties was filed in this case, but the Court interprets the caption of the Stipulation, which refers to this

STIPULATED [PROPOSED] PROTECTIVE ORDER

1 case, and the electronic signature of counsel for Google on the Stipulation, as
2 reflecting assent and agreement to be bound, thereby superseding Dkt. 47 from the
3 date of this Order), 8:19-cv-01856-DOC-JDE (no stipulation involving the Parties
4 was filed in this case, but the Court interprets the caption of the Stipulation, which
5 refers to this case, and the electronic signature of counsel for Samsung on the
6 Stipulation, as reflecting assent and agreement to be bound, thereby superseding
7 Dkt. 57 from the date of this Order) (collectively the foregoing cases are sometimes
8 referred to herein as “this case”), and for good cause shown therein, the Court
9 makes the following findings and enters the following Order.

10 1. Each Party may designate as confidential for protection under this
11 Order, in whole or in part, any document, information or material that constitutes or
12 includes, in whole or in part, confidential or proprietary information or trade secrets
13 of the Party or a Third Party to whom the Party reasonably believes it owes an
14 obligation of confidentiality with respect to such document, information or material
15 (“Protected Material”). Protected Material shall be designated by the Party
16 producing it by affixing a legend or stamp on such document, information or
17 material as follows: “CONFIDENTIAL.” The word “CONFIDENTIAL” shall be
18 placed clearly on each page of the Protected Material (except deposition and hearing
19 transcripts and natively produced documents) for which such protection is sought.
20 For deposition and hearing transcripts, the word “CONFIDENTIAL” shall be placed
21 on the cover page of the transcript (if not already present on the cover page of the
22 transcript when received from the court reporter) by each attorney receiving a copy
23 of the transcript after that attorney receives notice of the designation of some or all
24 of that transcript as “CONFIDENTIAL.” For natively produced Protected Material,
25 the word “CONFIDENTIAL” shall be placed in the filename of each such natively
26 produced document.
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1 2. Any document produced before issuance of this Order with the
2 designation “Confidential” or “Confidential - Outside Attorneys’ Eyes Only” shall
3 receive the same treatment as if designated “RESTRICTED - ATTORNEYS’ EYES
4 ONLY” under this Order, unless and until such document is redesignated to have a
5 different classification under this Order.

6 3. With respect to documents, information or material designated
7 “CONFIDENTIAL,” “RESTRICTED - ATTORNEYS’ EYES ONLY,” or
8 “RESTRICTED CONFIDENTIAL SOURCE CODE” (“DESIGNATED
9 MATERIAL”),¹ subject to the provisions herein and unless otherwise stated, this
10 Order governs, without limitation: (a) all documents, electronically stored
11 information, and/or things as defined by the Federal Rules of Civil Procedure; (b) all
12 pretrial, hearing or deposition testimony, or documents marked as exhibits or for
13 identification in depositions and hearings; (c) pretrial pleadings, exhibits to
14 pleadings and other court filings; (d) affidavits; and (e) stipulations. All copies,
15 reproductions, extracts, digests and complete or partial summaries prepared from
16 any DESIGNATED MATERIALS shall also be considered DESIGNATED
17 MATERIAL and treated as such under this Order. Absent written consent of the
18 Producing Party, one Defendant’s DESIGNATED MATERIAL shall not be
19 disclosed to or used with regard to any other Defendant.

20 4. A designation of Protected Material (i.e., “CONFIDENTIAL,”
21 “RESTRICTED -ATTORNEYS’ EYES ONLY,” or “RESTRICTED
22 CONFIDENTIAL SOURCE CODE”) may be made at any time. Inadvertent or
23 unintentional production of documents, information or material that has not been
24 designated as DESIGNATED MATERIAL shall not be deemed a waiver in whole
25 or in part of a claim for confidential treatment. Any party that inadvertently or
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27 ¹ The term DESIGNATED MATERIAL is used throughout this Protective Order to
28 refer to the class of materials designated as “CONFIDENTIAL,” “RESTRICTED -
ATTORNEYS’ EYES ONLY,” or “RESTRICTED CONFIDENTIAL SOURCE
CODE,” both individually and collectively.

1 unintentionally produces Protected Material without designating it as
2 DESIGNATED MATERIAL may request destruction of that Protected Material by
3 notifying the recipient(s), as soon as reasonably possible after the producing Party
4 becomes aware of the inadvertent or unintentional disclosure, and providing
5 replacement Protected Material that is properly designated. The recipient(s) shall
6 then destroy all copies of the inadvertently or unintentionally produced Protected
7 Materials and any documents, information or material derived from or based
8 thereon.

9 5. "CONFIDENTIAL" documents, information and material may be
10 disclosed only to the following persons, except upon receipt of the prior written
11 consent of the designating party, upon order of the Court, or as set forth in
12 paragraph 12 herein:

13 (a) outside counsel of record in the Action in which the information was
14 produced;

15 (b) employees of such counsel assigned to and reasonably necessary to
16 assist such counsel in the litigation of the Action in which the information was
17 produced;

18 (c) up to one in-house counsel for the receiving Party who is a member in
19 good standing of at least one state bar or international equivalent, executes the
20 Undertaking attached as Appendix A, and has responsibility for making decisions
21 dealing directly with the litigation of the Action in which the information was
22 produced;

23 (d) private mediators; arbitrators, or ADR professionals engaged in
24 connection with the Action in which the information was produced;

25 (e) outside consultants or experts² (i.e., not existing employees or affiliates
26 of a receiving Party or an affiliate of a receiving Party) retained for the purpose of

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28 ² For any such person, the curriculum vitae shall identify his/her (i) current
employer(s), (ii) each person or entity from whom s/he has received compensation

1 this litigation, provided that: (1) such consultants or experts are not presently
2 employed by a Party hereto for purposes other than the Action in which the
3 information was produced;³ (2) before access is given, the consultant or expert has
4 completed the Undertaking attached at Appendix A hereto and the same is served
5 upon the producing Party with a current curriculum vitae of the consultant or expert
6 at least seven (7) days before access to the Protected Material is to be given to that
7 consultant or Undertaking to object to and notify the receiving Party in writing that
8 it objects to disclosure of Protected Material to the consultant or expert. The Parties
9 agree to promptly confer and use good faith to resolve any such objection. If the
10 Parties are unable to resolve any objection, the objecting Party may file a motion
11 with the Court within ten (10) days of the notice, or within such other time as the
12 Parties may agree, seeking a protective order with respect to the proposed
13 disclosure. The objecting Party shall have the burden of proving the need for a
14 protective order. No disclosure shall occur until all such objections are resolved by
15 agreement or Court order;⁴

16 (f) independent litigation support services, including persons working for or
17 as court reporters, graphics or design services, jury or trial consulting services, and
18 photocopy, document imaging, and database services retained by counsel and
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21 or funding for work in his or her areas of expertise or to whom the s/he has provided
22 professional services, including in connection with a litigation, at any time during
23 the preceding five years; (iii) (by name and number of the case, filing date, and
24 location of court) any litigation in connection with which the s/he has offered expert
25 testimony, including through a declaration, report, or testimony at a deposition or
26 trial, during the preceding five years. If such consultant or expert believes any of
27 this information is subject to a confidentiality obligation to a third-party, then s/he
28 should provide 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.

³ For avoidance of doubt, an independent expert or consultant retained (as opposed
to employed) by a Party on another litigation would not be precluded under this
section.

⁴ Nothing in this order effects a waiver by any party to raising an objection if
circumstances warrant after the time period described in paragraph 5(e) expires.

1 reasonably necessary to assist counsel with the litigation of the Action in which the
2 information was produced; and

3 (g) the Court and its personnel.

4 6. A Party shall designate documents, information or material as
5 “CONFIDENTIAL” only upon a good faith belief that the documents, information
6 or material contains confidential or proprietary information or trade secrets of the
7 Party or a Third Party to whom the Party reasonably believes it owes an obligation
8 of confidentiality with respect to such documents, information or material.

9 7. Documents, information or material produced in an Action, including
10 but not limited to Protected Material designated as DESIGNATED MATERIAL,
11 and the knowledge of the existence of such Protected Material (i) shall be used only
12 for prosecuting, defending, or attempting to settle that Action, (ii) shall not be used
13 for any business purpose, in connection with any other legal or administrative
14 proceeding, including but not limited to any proceeding at the U.S. Patent and
15 Trademark Office (or any similar agency of a foreign government), or directly or
16 indirectly for any other purpose whatsoever, although the Parties to this Protective
17 Order will not object to use of undesignated materials produced in one of the above-
18 captioned Actions in another of the Actions, and (iii) shall not be disclosed to any
19 person who is not entitled to receive such Protected Material as herein provided.
20 Notwithstanding the foregoing, and subject to Paragraphs 9, 10, 21, and 32 below,
21 the Parties agree that should a Party wish to use DESIGNATED MATERIALS in an
22 Action other than the one in which it was produced (other than DESIGNATED
23 MATERIALS that are designated either “RESTRICTED — ATTORNEYS’ EYES
24 ONLY” or “RESTRICTED CONFIDENTIAL SOURCE CODE,” which as set forth
25 below in Paragraphs 9 and 10 may not be used in any related case under any
26 circumstances), the Party requesting to use such materials will meet and confer with
27 the designating party and that any dispute regarding such use shall be resolved
28 under C.D. Cal. Local Rule 37. All produced Protected Material shall be carefully

1 maintained so as to preclude access by persons who are not entitled to receive such
2 Protected Material, and any person or entity who obtains access to DESIGNATED
3 MATERIAL or the contents thereof pursuant to this Order shall not make any
4 copies, duplicates, extracts, summaries or descriptions of such DESIGNATED
5 MATERIAL or any portion thereof except as may be reasonably necessary in the
6 litigation of the Action in which the information was produced. Any such copies,
7 duplicates, extracts, summaries or descriptions shall be classified DESIGNATED
8 MATERIALS and subject to all of the terms and conditions of this Order.

9 8. To the extent a producing Party believes that certain Protected Material
10 qualifying to be designated CONFIDENTIAL is so sensitive that its dissemination
11 deserves even further limitation, the producing Party may designate such Protected
12 Material "RESTRICTED -- ATTORNEYS' EYES ONLY," or to the extent such
13 Protected Material includes or substantially relates to computer source code⁵ and/or
14 live data (that is, data as it exists residing in a database or databases), the producing
15 Party may designate such Protected Material as "RESTRICTED CONFIDENTIAL
16 SOURCE CODE" ("Source Code Material").

17 9. For Protected Material designated RESTRICTED -- ATTORNEYS'
18 EYES ONLY, access to, and disclosure of, such Protected Material shall be limited
19 to individuals listed in paragraphs 5(a-b) and (d-g). In addition, and subject to
20 Paragraphs 21 and 32 below, under no circumstances may a receiving Party use
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23 ⁵ "Source code" means computer code, formulas, engineering specifications, or
24 schematics that define or otherwise describe in detail the algorithms or structure of
25 source code, object code (i.e., computer instructions and data definitions expressed
26 in a form suitable for input to an assembler, compiler, or other translator),
27 microcode, register transfer language ("RTL"), firmware, and hardware description
28 language ("HDL"), as well as any and all programmer notes, annotations, and other
comments of any type directly related thereto and describing the code. For
avoidance of doubt, this includes source files, make files, intermediate output files,
not publicly available, proprietary executable files, header files, resource files,
library files, module definition files, map files, object files, linker files, browse info
files, and debug files.

1 DESIGNATED MATERIALS that are designated RESTRICTED – ATTORNEYS’
2 EYES ONLY in any action other than the Action in which they were produced.

3 10. For Protected Material designated RESTRICTED CONFIDENTIAL
4 SOURCE CODE, under no circumstances may a receiving Party use such
5 information in any case other than the Action in which the information was
6 produced, and the following additional restrictions apply:

7 (a) Access to a Party’s Source Code Material shall be provided only on
8 “stand-alone” computer(s) (that is, the computer may not be linked to any network,
9 including a local area network (“LAN”), an intranet or the Internet) in a secured
10 locked room. The stand-alone computer(s) may be connected to a printer. The
11 stand-alone computer(s) may only be located within the continental United States at
12 the offices of the producing Party’s outside counsel in the district or mutually
13 agreed location. The stand-alone computer(s) shall have disk encryption and be
14 password protected. Use or possession of any input/output device (e.g., USB
15 memory stick, mobile phone or tablet, camera or any camera-enabled device, CD,
16 floppy disk, portable hard drive, laptop, or any device that can access the Internet or
17 any other network or external system, etc.) is prohibited while accessing the
18 computer containing the source code. All persons entering the locked room
19 containing the stand-alone computer(s) must agree to submit to reasonable security
20 measures to ensure they are not carrying any prohibited items before they will be
21 given access to the stand-alone computer(s). The producing Party may periodically
22 “check in” on the activities of the receiving Party’s representatives during any
23 stand-alone computer review and may designate a person to visually monitor from
24 outside the room the receiving Party’s activities but in a manner that permits
25 monitoring but does not enable the viewer to view work product but only to ensure
26 that no unauthorized electronic records of the Source Code Material and no
27 information concerning the Source Code Material are being created or transmitted in
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1 any way. The producing Party may not record (visually, audibly or by other means)
2 the activities of the receiving Party's representatives;

3 (b) The receiving Party shall make reasonable efforts to restrict its requests
4 for such access to the stand-alone computer(s) to normal business hours, which for
5 purposes of this paragraph shall be 8:00 a.m. through 6:00 p.m. However, upon
6 reasonable notice from the receiving party, the producing Party shall make
7 reasonable efforts to accommodate the receiving Party's request for access to the
8 stand-alone computer(s) outside of normal business hours. The Parties agree to
9 cooperate in good faith such that maintaining the producing Party's Source Code
10 Material at the offices of its outside counsel shall not unreasonably hinder the
11 receiving Party's ability to efficiently and effectively conduct the prosecution or
12 defense of the Action for which the Source Code Material was made available;

13 (c) The Receiving Party's outside counsel and/or experts may request that
14 commercially available software tools for reviewing, viewing, and searching Source
15 Code be installed on the standalone computer, provided, however, that (1) the
16 Receiving Party possesses an appropriate license to such software tools and the
17 software does not enable functions other than viewing and searching Source Code or
18 otherwise compromise security of the Source Code Computer; and (2) the request is
19 made not less than 7 business days in advance of the requested inspection. The
20 Receiving Party must provide the Producing Party with such licensed software
21 tool(s) at least 7 business days in advance of the date upon which the Receiving
22 Party wishes to have the additional software tools available for use on the Source
23 Code Computer. Defendants will not provide any tools with compiler functionality,
24 and Apple will produce its code in a MacOS environment, consistent with how it is
25 created and maintained. Accordingly, any requested tools should be compatible
26 with the applicable operating system (*e.g.*, in the case of Apple, compatible with
27 MacOS). The Producing Party may object to the requested software tool(s) within 5
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1 business days of the request, and the software tool(s) will not be installed on the
2 Source Code Computer until such objection is resolved;

3 (d) The producing Party will produce Source Code Material in computer-
4 searchable format on the stand-alone computer(s) as described above in a format
5 that preserves the Source Code structure and relationships;

6 (e) Access to Protected Material designated RESTRICTED
7 CONFIDENTIAL - SOURCE CODE shall be limited to outside counsel and up to
8 three (3) outside consultants or experts⁶ (i.e., not existing employees or affiliates of
9 a receiving Party or an affiliate of a receiving Party) retained for the purpose of this
10 litigation and approved to access such Protected Materials pursuant to paragraph
11 5(e) above. A receiving Party may include excerpts of Source Code Material in a
12 pleading, exhibit, expert report, discovery document, deposition transcript, other
13 Court document, provided that the Source Code Documents are appropriately
14 marked under this Order, restricted to those who are entitled to have access to them
15 as specified herein, and, if filed with the Court, filed under seal in accordance with
16 the Court's rules, procedures and orders;

17 (f) To the extent portions of Source Code Material are quoted in an
18 electronic copy or image of a document which, pursuant to the Court's rules,
19 procedures, or order, must be filed or served electronically ("Source Code
20 Document"), either (1) the entire Source Code Document will be stamped and
21 treated as RESTRICTED CONFIDENTIAL SOURCE CODE or (2) those pages
22 containing quoted Source Code Material will be separately stamped and
23 treated as RESTRICTED CONFIDENTIAL SOURCE CODE;

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26 ⁶ For the purposes of this paragraph, an outside consultant or expert is defined to
27 include the outside consultant's or expert's direct reports and other support
28 personnel, such that the disclosure to a consultant or expert who employs others
within his or her firm to help in his or her analysis shall count as a disclosure to a
single consultant or expert. Each person who accesses information designated as
RESTRICTED CONFIDENTIAL SOURCE CODE shall execute Exhibit A.

1 (g) Except as set forth in this paragraph, no electronic copies or images of
2 Source Code Material shall be made without prior written consent of the producing
3 Party. The receiving Party may create an electronic copy or image of limited
4 excerpts of Source Code Material only to the extent necessary to create Source Code
5 Documents or any drafts of these documents.⁷ Notwithstanding paragraph 19, the
6 receiving Party shall only include such excerpts as are reasonably necessary for the
7 purposes for which such part of the Source Code Material is used. Images or copies
8 of Source Code Material shall not be included in correspondence between the
9 parties (references to production numbers shall be used instead) and shall be omitted
10 from pleadings and other papers except to the extent permitted herein. The
11 receiving Party may create an electronic image of a selected portion of the Source
12 Code Material only when the electronic file containing such image has been
13 encrypted using commercially reasonable encryption software including password
14 protection. The communication and/or disclosure of electronic files containing any
15 portion of Source Code Material shall at all times be limited to individuals who are
16 authorized to see Source Code Material under the provisions of this Protective
17 Order. Additionally, all electronic copies must be labeled “RESTRICTED
18 CONFIDENTIAL SOURCE CODE.” If Source Code Documents are filed with the
19 Court, they must be filed under seal in accordance with the Court’s rules,
20 procedures and orders;

21 (h) No person shall copy, e-mail, transmit, upload, download, print,
22 photograph or otherwise duplicate any portion of the designated “RESTRICTED
23 CONFIDENTIAL SOURCE CODE” material, except that the Receiving Party may
24 request paper copies (“Source Code Printouts”) of reasonable, limited portions of
25 the Source Code Material, but only if and to the extent reasonably necessary for the
26 preparation of court filings, pleadings, expert reports, or other papers, or for

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28 ⁷ Drafts shall only include those excerpts the Receiving Party reasonably believes
will be included in the final version.

1 deposition or trial. The Parties agree that a reasonable, limited portion of Source
2 Code Material is up to 15 consecutive pages, or an aggregate total of no more than
3 200 pages, of source code. Beyond these presumptive limits, the receiving Party
4 must obtain prior written approval by the producing Party for additional printing.
5 The receiving Party shall not request paper copies for the purposes of reviewing the
6 source code other than electronically as set forth in paragraph (a) in the first
7 instance. If the receiving party's expert is unable to wait for the requested printouts
8 on the day of inspection, within 5 business days or such additional time as necessary
9 due to volume requested, the Producing Party will provide the requested material on
10 watermarked or colored paper bearing Bates numbers and the legend
11 "RESTRICTED CONFIDENTIAL SOURCE CODE" unless objected to as
12 discussed below. At the inspecting Party's request, up to two additional sets (or
13 subsets) of printed source code may be requested and provided by the producing
14 Party in a timely fashion. Even if within the limits described, the producing Party
15 may challenge the amount of source code requested in hard copy form or whether
16 the source code requested in hard copy form is reasonably necessary to any case
17 preparation activity pursuant to the dispute resolution procedure and timeframes set
18 forth herein whereby the producing Party is the "requesting Party" and the receiving
19 Party is the "designating Party" for purposes of dispute resolution. Contested Source
20 Code Printouts do not need to be produced to the receiving Party until the matter is
21 resolved by the Court;

22 (i) If the receiving Party's outside counsel, consultants, or experts obtain
23 Source Code Printouts of Source Code Material, the receiving Party shall ensure
24 that such outside counsel, consultants, or experts keep the Source Code Printouts
25 under their direct control in a secured locked area in the offices of such outside
26 counsel, consultants, or expert. The receiving Party may also temporarily keep the
27 Source Code Printouts or photocopies at: (i) the Court for any proceedings(s)
28 relating to the Source Code Material, for the dates associated with the

1 proceeding(s); (ii) the sites where any deposition(s) relating to the Source Code
2 Material are taken, for the dates associated with the deposition(s); and (iii) any
3 intermediate location reasonably necessary to transport the Source Code Printouts
4 prior to a Court proceeding or deposition, provided that the printouts or photocopies
5 are kept in a secure manner that ensures access is limited to the persons authorized
6 under this Order);

7 (j) A producing Party's Source Code Material may only be transported by
8 the receiving Party at the direction of a person authorized under paragraph 10(e)
9 above to another person authorized under paragraph 10(e) above on paper via hand
10 delivery or other similarly reliable and secure courier. Source Code Material may
11 not be transported or transmitted electronically over a network of any kind,
12 including a LAN, an intranet, or the Internet. Source Code Material may only be
13 transported electronically as is reasonably necessary for filing any Source Code
14 Material with the Court or serving such Source Code Material on another Party;

15 (k) The receiving Party's outside counsel and/or expert shall be entitled to
16 take notes relating to the source code but may not copy any portion of the source
17 code into the notes. No copies of all or any portion of the source code may leave
18 the room in which the source code is inspected except as otherwise provided herein.
19 Further, no other written or electronic record of the source code is permitted except
20 as otherwise provided herein. To the extent requested, a separate note taking
21 computer will be provided by the producing party, and printouts of any notes will be
22 provided with Source Code printouts. Notwithstanding the foregoing, any such
23 notes shall be stamped and treated as "RESTRICTED CONFIDENTIAL SOURCE
24 CODE." The log of such notes need not be produced to any other party absent
25 Court Order (e.g. potentially in connection with a Protective Order violation
26 motion);

27 (l) A list of names of persons who will review Source Code Material on the
28 stand-alone computer(s) will be provided to the producing Party in conjunction with

1 any written (including email) notice requesting inspection. Prior to the first
2 inspection of any Source Code Material on the stand-alone computer(s), the
3 receiving Party shall provide five (5) business days' notice to schedule the initial
4 inspection with the producing Party, after the producing Party notifies the receiving
5 Party that source code is available for review. The parties agree that,
6 notwithstanding the five-day notice requirement, upon request by the receiving
7 Party the producing Party will in good faith consider allowing inspections on less
8 than five days' notice where reasonable. The receiving Party shall provide three (3)
9 business days' notice in advance of scheduling any additional inspections. Such
10 notice shall include the names and titles for every individual from the receiving
11 Party who will attend the inspection. The producing Party may maintain a daily log
12 of the names of persons who enter the locked room to view the source code and
13 when they enter and depart;

14 (m) The receiving Party's outside counsel shall maintain a log of all copies
15 of the Source Code Printouts (received from a producing Party) that are delivered by
16 the receiving Party to any person and a log of any electronic images of Source Code
17 Material. The log shall include the names of the recipients and reviewers of copies
18 and locations where the copies are stored. Upon request by the producing Party, the
19 receiving Party shall provide reasonable assurances and/or descriptions of the
20 security measures employed by the receiving Party and/or person that receives a
21 copy of any portion of the source code; and

22 (n) All copies of any portion of the Source Code Printouts in whatever form
23 shall be securely destroyed if they are no longer in use. Copies of Source Code
24 Printouts that are marked as deposition exhibits shall not be provided to the Court
25 Reporter or attached to deposition transcripts; rather, the deposition record will
26 identify the exhibit by its production numbers.

27 11. Absent written consent from the designating Party, any person who
28 reviews Apple, Google, or Samsung Protected Material that is designated

1 RESTRICTED -- ATTORNEYS' EYES ONLY and/or RESTRICTED
2 CONFIDENTIAL SOURCE CODE (collectively "HIGHLY SENSITIVE
3 MATERIAL"), under this Order shall not prepare, prosecute, supervise, or assist in
4 the preparation or prosecution of any patent application relating to (a) wireless
5 earbuds, (b) any products, services, or systems accused by Plaintiff in the Action
6 against that defendant, or (c) the patents asserted in the Action against that
7 defendant and any patent or application claiming priority to or otherwise related to
8 the patents asserted in that Action (collectively the "Field of Invention") during the
9 pendency of that Action and for two years after its conclusion, including any
10 appeals. For purposes of this paragraph, "prosecution" includes any activity related
11 to (i) the preparation or prosecution (for any person or entity) of patent applications,
12 including among others reexamination and reissue applications or (ii) directly or
13 indirectly participating, drafting, amending, advising, or otherwise affecting the
14 scope or maintenance of patent claims. Notwithstanding the foregoing, a person
15 who has received designated material may participate and advise on matters not
16 affecting claim scope, including, without limitation, submission of information to
17 the Patent Office, submission of maintenance fees, and participation in inter partes
18 review except to amend claims.

19 12. To ensure compliance with the purpose of this provision, Pinn shall
20 create an "Ethical Wall" between those persons with access to HIGHLY
21 SENSITIVE MATERIAL and any individuals who, on behalf of the Party or its
22 acquirer, successor, predecessor, or other affiliate, prepare, prosecute, supervise or
23 assist in the preparation or prosecution of any patent application pertaining to the
24 Field of Invention.

25 13. Absent written consent from a defendant, any individual affiliated with
26 Pinn who receives, accesses, or otherwise learns of that defendant's HIGHLY
27 SENSITIVE MATERIAL under this Order shall not, for two (2) years from the last
28 date of access to such information, be involved in identifying patents or patent

1 applications for acquisition or advising clients on the acquisition of patents or patent
2 applications for the purpose of potential assertion against that defendant or that
3 defendant's products in the Field of Invention.

4 14. Disclosure of Protected Material shall be subject to all applicable laws
5 and regulations relating to the export of technical data contained in such Protected
6 Material, including the release of such technical data to foreign persons or nationals
7 in the United States or elsewhere. Each party receiving Protected Material shall
8 comply with all applicable export control statutes and regulations. See, e.g., 15
9 CFR 734.2(b). No party receiving Protected Material may allow it to leave the
10 territorial boundaries of the United States of America or to be made available to any
11 foreign national who is not (i) lawfully admitted for permanent residence in the
12 United States or (ii) identified as a protected individual under the Immigration and
13 Naturalization Act (8 U.S.C. 1324b(a)(3)). Without limitation, this prohibition
14 extends to Protected Material (including copies) in physical and electronic form.
15 The viewing of Protected Material by the party receiving Protected Material through
16 electronic means outside the territorial limits of the United States of America is
17 similarly prohibited. Notwithstanding this prohibition, Protected Material,
18 exclusive of material designated RESTRICTED CONFIDENTIAL - SOURCE
19 CODE, and to the extent otherwise permitted by law, may be taken outside the
20 territorial limits of the United States if it is reasonably necessary for a deposition
21 taken in a foreign country. The restrictions contained within this paragraph may be
22 amended through the consent of the producing Party to the extent that such agreed
23 to procedures conform with applicable export control laws and regulations.

24 15. Nothing in this Order shall require production of documents,
25 information or other material that a Party contends is protected from disclosure by
26 the attorney-client privilege, the work product doctrine, or other privilege, doctrine,
27 or immunity. Pursuant to Federal Rule of Evidence 502(d) and (e), if documents,
28 information or other material subject to a claim of attorney-client privilege, work

1 product doctrine, or other privilege, doctrine, or immunity is produced, such
2 production shall in no way prejudice or otherwise constitute a waiver of, or estoppel
3 as to, any such privilege, doctrine, or immunity. Any Party that produces
4 documents, information or other material it reasonably believes are protected under
5 the attorney-client privilege, work product doctrine, or other privilege, doctrine, or
6 immunity may obtain the return of such documents, information or other material by
7 notifying the recipient(s) and providing a privilege log for the produced documents,
8 information or other material. The recipient(s) shall gather and return all copies of
9 such documents, information or other material to the producing Party, except for
10 any pages containing privileged or otherwise protected markings by the recipient(s),
11 which pages shall instead be destroyed and certified as such to the producing Party.

12 16. There shall be no disclosure of any DESIGNATED MATERIAL by any
13 person authorized to have access thereto to any person who is not authorized for
14 such access under this Order. The Parties are hereby ORDERED to safeguard all
15 such documents, information and material to protect against disclosure to any
16 unauthorized persons or entities.

17 17. Nothing contained herein shall be construed to prejudice any Party's
18 right to use any DESIGNATED MATERIAL in taking testimony at any deposition
19 or hearing provided that the DESIGNATED MATERIAL is only disclosed to a
20 person(s) who is: (i) eligible to have access to the DESIGNATED MATERIAL by
21 virtue of his or her current or past employment with the designating party, (ii)
22 identified in the DESIGNATED MATERIAL as an author, addressee, or copy
23 recipient of such information, (iii) although not identified as an author, addressee, or
24 copy recipient of such DESIGNATED MATERIAL, reasonably is expected to have,
25 in the ordinary course of business, seen such DESIGNATED MATERIAL; (iv)
26 court reporters and videographers; (v) the Court; or (vi) other persons entitled
27 hereunder to access to DESIGNATED MATERIAL. DESIGNATED MATERIAL
28 shall not be disclosed to any other persons unless prior authorization is obtained

1 from counsel representing the producing Party or from the Court.⁸ Parties shall give
2 the other Parties reasonable notice (a minimum of two business days) if they
3 reasonably expect a deposition, hearing or other proceeding to include Protected
4 Material so that the other Parties can ensure that only authorized individuals are
5 present at those proceedings. Subject to any challenge to a particular designation
6 under paragraph 20, the Parties will not oppose any reasonable request by the
7 designating Party that the courtroom be sealed, if allowed by the Court, during the
8 presentation of any testimony, evidence, or argument relating to or involving the use
9 of any Protected Material.

10 18. Parties may, at the deposition or hearing or within thirty (30) days after
11 receipt of a deposition or hearing transcript, designate the deposition or hearing
12 transcript or any portion thereof as “CONFIDENTIAL,” “RESTRICTED -
13 ATTORNEYS’ EYES ONLY,” or “RESTRICTED CONFIDENTIAL SOURCE
14 CODE” pursuant to this Order. Access to the deposition or hearing transcript so
15 designated shall be limited in accordance with the terms of this Order. Until
16 expiration of the 30-day period, the entire deposition or hearing transcript shall be
17 treated as “RESTRICTED - ATTORNEYS’ EYES ONLY”.

18 19. Filing Protected Material. Subject to Local Rule 79-5, without written
19 permission from the Designating Party or a Court order secured after appropriate
20 notice to all interested persons, a Party may not file in the public record in these
21 actions any Protected Material. A Party that seeks to file under seal any Protected
22 Material must comply with C.D. Cal. L.R. 79-5. Protected Material may only be
23

24 _____
25 ⁸ In the event a non-Party witness is authorized to receive Protected Material that is
26 to be used during his/her deposition but is represented by an attorney not authorized
27 under this Order to receive such Protected Material, the attorney must provide prior
28 to commencement of the deposition an executed Undertaking attached as Exhibit A.
In the event such attorney declines to sign the Undertaking prior to the examination,
the Parties, by their attorneys, shall jointly seek a protective order from the Court
prohibiting the attorney from disclosing Protected Material in order for the
deposition to proceed.

1 filed under seal pursuant to a Court order authorizing the sealing of the specific
2 Protected Material at issue.

3 20. The Order applies to pretrial discovery. Nothing in this Order shall be
4 deemed to prevent the Parties from introducing any DESIGNATED MATERIAL
5 into evidence at the trial of the Action in which it was produced, or from using any
6 information contained in DESIGNATED MATERIAL at the trial of the Action in
7 which it was produced, subject to any pretrial order issued by this Court.

8 Notwithstanding the foregoing, a Party shall provide a minimum of two business
9 days' notice to the Producing Party in the event that a Party intends to use any
10 Protected Information during trial. Subject to any challenges under Section 20, the
11 Parties will not oppose any reasonable request by the Producing Party that the
12 courtroom be sealed, if allowed by the Court, during the presentation of any
13 testimony, evidence, or argument relating to or involving the use of any Protected
14 Material.

15 21. A Party may request in writing to the other Party that the designation
16 given to any DESIGNATED MATERIAL be modified or withdrawn. If the
17 designating Party does not agree to redesignation within five (5) days of receipt of
18 the written request, the requesting Party may apply to the Court for relief. Upon any
19 such application to the Court, the burden shall be on the designating Party to show
20 why its classification is proper. Such application shall be treated procedurally as a
21 motion to compel pursuant to Federal Rules of Civil Procedure 37 and C.D. Cal.
22 L.R. 37, subject to the Rule's provisions relating to sanctions. In making such
23 application, the requirements of the Federal Rules of Civil Procedure and the Local
24 Rules of the Court shall be met. Pending the Court's determination of the
25 application, the designation of the designating Party shall be maintained.

26 22. Each outside consultant or expert to whom DESIGNATED MATERIAL
27 is disclosed in accordance with the terms of this Order shall be advised by counsel
28 of the terms of this Order, shall be informed that he or she is subject to the terms

1 and conditions of this Order, and shall sign an acknowledgment that he or she has
2 received a copy of, has read, and has agreed to be bound by this Order. A copy of
3 the acknowledgment form is attached as Appendix A.

4 23. To the extent that any discovery is taken of persons who are not Parties
5 to these Actions (“Third Parties”) and in the event that such Third Parties contend
6 the discovery sought involves trade secrets, confidential business information, or
7 other proprietary information, then such Third Parties may agree to be bound by this
8 Order.

9 24. To the extent that discovery or testimony is taken of Third Parties, the
10 Third Parties or any Party may designate as “CONFIDENTIAL” or “RESTRICTED
11 -- ATTORNEYS’ EYES ONLY” any documents, information or other material, in
12 whole or in part, produced or give by such documents, information or other
13 material, in whole or in part, produced or given by such Third Parties. The Third
14 Parties or any Party shall have ten (10) days after production of such documents,
15 information or other materials to make such a designation. Until that time period
16 lapses or until such a designation has been made, whichever occurs sooner, all
17 documents, information or other material so produced or given shall be treated as
18 “RESTRICTED -- ATTORNEYS’ EYES ONLY” in accordance with this Order.
19 Where a Third Party designates any documents, information or other material as
20 provided herein, experts previously disclosed and approved hereunder prior to said
21 Third Party’s production of any Protected Material need not be disclosed to said
22 Third Party. Subsequently disclosed experts need not be disclosed to said Third
23 Party before that Third Party’s Protected Material may be disclosed thereto.

24 25. If a Party is served with a subpoena issued by a court, arbitral,
25 administrative, or legislative body, or with a court order issued in other litigation
26 that compels disclosure of any information or items designated in these actions as
27 “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES
28 ONLY” or “HIGHLY CONFIDENTIAL – SOURCE CODE” that Party must.

1 (a) promptly notify in writing the designating Party. Such notification shall
2 include a copy of the subpoena or court order;

3 (b) promptly notify in writing the person who caused the subpoena or order
4 to issue in the other litigation that some or all of the material covered by the
5 subpoena or order is subject to this Protective Order. Such notification shall include
6 a copy of this Protective Order; and

7 (c) cooperate with respect to all reasonable procedures sought to be pursued
8 by the designating Party whose Protected Material may be 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 these
11 actions as “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL – ATTORNEYS’
12 EYES ONLY” or “HIGHLY CONFIDENTIAL – SOURCE CODE” before a
13 determination by the court from which the subpoena or order issued, unless the
14 Party has obtained the designating Party’s permission. The designating Party shall
15 bear the burden and expense of seeking protection in that court of its confidential
16 material – and nothing in these provisions should be construed as authorizing or
17 encouraging a receiving Party in these actions to disobey a lawful directive from
18 another court.

19 26. Within thirty (30) days of final termination of the Action in which the
20 DESIGNATED MATERIAL was produced, including any appeals, all
21 DESIGNATED MATERIAL, including all copies, duplicates, abstracts, indexes,
22 summaries, descriptions, and excerpts or extracts thereof (excluding and materials
23 which have been admitted into evidence in that Action), shall at the producing
24 Party’s election either be returned to the producing Party or be destroyed. The
25 receiving Party shall verify the return or destruction by affidavit furnished to the
26 producing Party, upon the producing Party’s request.

27 27. The failure to designate documents, information or material in
28 accordance with this Order and the failure to object to a designation at a given time

1 shall not preclude the filing of a motion at a later date seeking to impose such
2 designation or challenging the propriety thereof. The entry of this Order and/or the
3 production of documents, information and material hereunder shall in no way
4 constitute a waiver of any objection to the furnishing thereof, all such objections
5 being hereby preserved.

6 28. Any Party knowing or believing that any other party is in violation of or
7 intends to violate this Order and has raised the question of violation or potential
8 violation with the opposing party and has been unable to resolve the matter by
9 agreement may move the Court for such relief as may be appropriate in the
10 circumstances. Pending disposition of the motion by the Court, the Party alleged to
11 be in violation of or intending to violate this Order shall discontinue the
12 performance of and/or shall not undertake the further performance of any action
13 alleged to constitute a violation of this Order.

14 29. Production of DESIGNATED MATERIAL by each of the Parties shall
15 not be deemed a publication of the documents, information and material (or the
16 contents thereof) produced so as to void or make voidable whatever claim the
17 Parties may have as to the proprietary and confidential nature of the documents,
18 information or other material or its contents.

19 30. Absent good cause, drafts of reports of testifying experts and reports and
20 other written materials, including drafts, or consulting experts, shall not be
21 discoverable.

22 (a) Reports and materials exempt from discovery under the foregoing
23 Paragraph shall be treated as attorney work product for the purposes of this case and
24 Protective Order.

25 (b) Testifying experts shall not be subject to discovery with respect to
26 any draft of his or her report(s) in this case. Draft reports, notes, or outlines for draft
27 reports developed and drafted by the testifying expert and/or his or her staff are also
28 exempt from discovery.

1 (c) Discovery of materials provided to testifying experts shall be
2 limited to those materials, facts, consulting expert opinions, and other matters
3 actually relied upon by the testifying expert in forming his or her final report, trial,
4 or deposition testimony or any opinion in this case. No discovery can be taken from
5 any non-testifying expert except to the extent that such non-testifying expert has
6 provided information, opinions, or other materials to a testifying expert relied upon
7 by that testifying expert in forming his or her final report(s), trial, and/or deposition
8 testimony or any opinion in this case.

9 (d) No conversations or communications between counsel and any
10 testifying or consulting expert will be subject to discovery unless the conversations
11 or communications are relied upon by such experts in formulating opinions that are
12 presented in reports or trial or deposition testimony in this case.

13 31. Nothing in this Order shall be construed to effect an abrogation, waiver
14 or limitation of any kind on the rights of each of the Parties to assert any applicable
15 discovery or trial privilege.

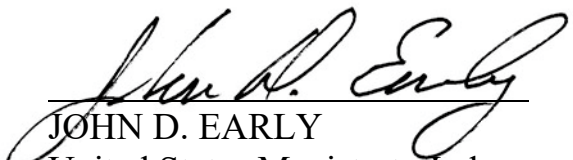
16 32. Each of the Parties shall also retain the right to file a motion with the
17 Court (a) to modify this Order, including modification to allow disclosure of
18 DESIGNATED MATERIAL to additional persons or entities if reasonably
19 necessary to prepare and present one or more of these Actions and (b) to apply for
20 additional protection of DESIGNATED MATERIAL.

21 33. This Order shall be binding upon the Parties hereto, their attorneys, and
22 their successors, executors, personal representatives, administrators, heirs, legal
23 representatives, assigns, subsidiaries, divisions, employees, agents, retained
24 consultants and experts, and any persons or organizations over which they have
25 direct control.

26 Pursuant to the Stipulation, IT IS SO ORDERED.
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DATED: March 17, 2020



JOHN D. EARLY
United States Magistrate Judge

1
2 **APPENDIX A**
3 **UNDERTAKING OF EXPERTS OR CONSULTANTS REGARDING**
4 **PROTECTIVE ORDER**

5 I, _____, declare that:

- 6 1. My address is _____ My current
7 employer is _____. My
8 current occupation is _____.
- 9 2. I have received a copy of the Protective Order in Action No. _____. I have
10 carefully read and understand the provisions of the Protective Order.
- 11 3. I will comply with all of the provisions of the Protective Order. I will hold in
12 confidence, will not disclose to anyone not qualified under the Protective
13 Order, and will use only for purposes of this action any information designated
14 as “CONFIDENTIAL,” “RESTRICTED -- ATTORNEYS’ EYES ONLY,” or
15 “RESTRICTED CONFIDENTIAL SOURCE CODE” that is disclosed to me.
- 16 4. Promptly upon termination of these actions, I will return all documents and
17 things designated as “CONFIDENTIAL,” “RESTRICTED -- ATTORNEYS’
18 EYES ONLY,” or “RESTRICTED CONFIDENTIAL SOURCE CODE” that
19 came into my possession, and all documents and things that I have prepared
20 relating thereto, to the outside counsel for the party by whom I am employed.
- 21 5. I hereby submit to the jurisdiction of this Court for the purpose of enforcement
22 of the Protective Order in this action.

23 I declare under penalty of perjury that the foregoing is true and correct.

24 Signature _____

25 Date _____

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