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17 [Additional Counsel listed on Signature
 18 Page]

19 **UNITED STATES DISTRICT COURT**
 20 **NORTHERN DISTRICT OF CALIFORNIA**
 21 **SAN FRANCISCO DIVISION**

22 AMERICAN NAVIGATION SYSTEMS,
 23 INC.,
 24 Plaintiff,
 25 v.
 26 SAMSUNG ELECTRONICS CO., LTD.,
 27 SAMSUNG ELECTRONICS AMERICA,
 28 INC., and SAMSUNG
 TELECOMMUNICATIONS AMERICA,
 LLC,
 Defendants.

Case No. 3:14-cv-05298-JST
STIPULATED PROTECTIVE ORDER

1 Plaintiff American Navigation Systems, Inc. (“Plaintiff”) and Defendants Samsung
2 Electronics Co., Ltd. and Samsung Electronics America, Inc. (collectively “Defendants”)
3 anticipate that documents, testimony, or information containing or reflecting confidential,
4 proprietary, trade secret, and/or commercially sensitive information are likely to be disclosed or
5 produced during the course of discovery, initial disclosures, and supplemental disclosures in this
6 case. Accordingly, they stipulate to the following Protective Order, which sets forth the
7 conditions for treating, obtaining, and using such information.

8 1. **PURPOSES AND LIMITATIONS**

9 (a) Protected Material designated under the terms of this Protective Order shall
10 be used by a Receiving Party solely for this case, and shall not be used directly or indirectly for
11 any other purpose whatsoever.

12 (b) The Parties acknowledge that this Order does not confer blanket
13 protections on all disclosures during discovery, or in the course of making initial or supplemental
14 disclosures under Rule 26(a). Designations under this Order shall be made with care and shall not
15 be made absent a good faith belief that the designated material satisfies the criteria set forth
16 below. If it comes to a Producing Party’s attention that designated material does not qualify for
17 protection at all, or does not qualify for the level of protection initially asserted, the Producing
18 Party must promptly notify all other Parties that it is withdrawing or changing the designation.

19 2. **DEFINITIONS**

20 (a) “Discovery Material” means all items or information, including from any
21 non-party, regardless of the medium or manner generated, stored, or maintained (including,
22 among other things, testimony, transcripts, or tangible things) that are produced, disclosed, or
23 generated in connection with discovery or Rule 26(a) disclosures in this case. “Discovery
24 Material” does not include information, documents, or other materials that a receiving party knew
25 or possessed before a Producing Party disclosed or produced it in discovery.

26 (b) “Outside Counsel” means (i) outside counsel who have entered a notice of
27 appearance as counsel for a Party and (ii) partners, associates, and staff of such counsel to whom
28 it is reasonably necessary to disclose the information for this litigation.

1 (c) "Patents-in-suit" means U.S. Patent No. 5,902,347, and any other patent
2 asserted in this action, as well as any related patents, patent applications, provisional patent
3 applications, continuations, and/or divisionals.

4 (d) "Party" means any party to this case, including all of its officers, directors,
5 employees, consultants, retained experts, and outside counsel and their support staffs.

6 (e) "Producing Party" means any Party or non-party that discloses or produces
7 any Discovery Material in this case.

8 (f) "Protected Material" means any Discovery Material that is designated as
9 "CONFIDENTIAL," "CONFIDENTIAL - ATTORNEYS' EYES ONLY," or "CONFIDENTIAL
10 - OUTSIDE ATTORNEYS' EYES ONLY - SOURCE CODE," as provided for in this Order.
11 Protected Material shall not include: (i) advertising materials that have been actually published or
12 publicly disseminated; and (ii) materials that show on their face they have been disseminated to
13 the public.

14 (g) "Receiving Party" means any Party who receives Discovery Material from
15 a Producing Party.

16 (h) "Source Code" means computer code, scripts, assembly, binaries, object
17 code, source code listings and descriptions of source code, object code listings and descriptions of
18 object code, and Hardware Description Language (HDL) or Register Transfer Level (RTL) files
19 that describe the hardware design of any ASIC or other chip.

20 3. **COMPUTATION OF TIME**

21 The computation of any period of time prescribed or allowed by this Order shall be
22 governed by the provisions for computing time set forth in Federal Rules of Civil Procedure 6.

23 4. **SCOPE**

24 (a) The protections conferred by this Order cover not only Discovery Material
25 governed by this Order as addressed herein, but also any information copied or extracted
26 therefrom, as well as all copies, excerpts, summaries, or compilations thereof, plus testimony,
27 conversations, or presentations by Parties or their counsel in court or in other settings that might
28 reveal Protected Material.

1 (b) Nothing in this Protective Order shall prevent or restrict a Producing
2 Party's own disclosure or use of its own Protected Material for any purpose,.

3 (c) Nothing in this Order shall be construed to prejudice any Party's right to
4 use any Protected Material in court or in any court filing with the consent of the Producing Party
5 or by order of the Court.

6 (d) This Order is without prejudice to the right of any Party to seek further or
7 additional protection of any Discovery Material or to modify this Order in any way, including,
8 without limitation, an order that certain matter not be produced at all.

9 5. **DURATION**

10 Even after the termination of this case, the confidentiality obligations imposed by
11 this Order shall remain in effect until a Producing Party agrees otherwise in writing or a court
12 order otherwise directs.

13 6. **ACCESS TO AND USE OF PROTECTED MATERIAL**

14 (a) **Basic Principles.** All Protected Material shall be used solely for this case
15 or any related appellate proceeding, and not for any other purpose whatsoever, including without
16 limitation any other litigation, patent prosecution or acquisition, patent reexamination or reissue
17 proceedings, or any business or competitive purpose or function, except as authorized herein.
18 Protected Material shall not be distributed, disclosed or made available to anyone except as
19 expressly provided in this Order.

20 (b) **Patent Prosecution Bar.** Absent the written consent of the Producing Party,
21 any person on behalf of the Plaintiff who receives one or more items designated
22 "CONFIDENTIAL – ATTORNEYS' EYES ONLY" or "CONFIDENTIAL – ATTORNEYS'
23 EYES ONLY – SOURCE CODE" by a Defendant shall not be involved, directly or indirectly, in
24 any of the following activities: (i) advising on, consulting on, preparing, prosecuting, drafting,
25 editing, and/or amending of patent applications, specifications, claims, and/or responses to office
26 actions, or otherwise affecting the scope of claims in patents or patent applications relating to the
27 functionality, operation, and design of GPS navigation systems (generally or as described in any
28 patent in suit), before any foreign or domestic agency, including the United States Patent and

1 Trademark Office; and (ii) the acquisition of patents (including patent applications), or the rights
2 to any such patents or patent applications with the right to sublicense, relating to the functionality,
3 operation, and design of GPS navigation systems (generally or as described in the Patents-in-
4 Suit). These prohibitions are not intended to and shall not preclude counsel from participating in
5 proceedings on behalf of a Party challenging the validity of any patent, and nothing in this
6 paragraph shall prevent any attorney from sending prior art to an attorney involved in patent
7 prosecution for purposes of ensuring that such prior art is submitted to the U.S. Patent and
8 Trademark Office (or any similar agency of a foreign government) to assist a patent applicant in
9 complying with its duty of candor. Notwithstanding the foregoing, this paragraph shall not
10 prohibit any employee or attorney for a Party from assisting in any reexamination, inter partes
11 review, covered business method review, or reissue proceedings of the Patents-in-Suit, any
12 patents within the same patent family as a Patent-in-Suit, or any patents to which a Patent-in-Suit
13 claims priority if the reexamination, inter partes review, covered business method review, or
14 reissue proceedings do not seek to amend or add patent claims. These prohibitions shall begin
15 when access to “CONFIDENTIAL – ATTORNEYS’ EYES ONLY” or “CONFIDENTIAL –
16 ATTORNEYS’ EYES ONLY – SOURCE CODE” materials are first received by the affected
17 individual, and shall end one (1) year after the final resolution of this action, including all appeals.
18 The provisions of this Paragraph relate to individuals, and do not run to an attorney’s entire law
19 firm. In other words, an attorney shall be subject to the prosecution bar if that attorney receives
20 or has access to documents that trigger the prosecution bar, but other attorneys in that attorney’s
21 law firm who have not received or had access to such documents and who have not discussed the
22 prosecution of the patents-in-suit with an individual subject to the prosecution bar will not
23 themselves be subject to the prosecution bar.

24 (c) Secure Storage, No Export. Protected Material must be stored and
25 maintained by a Receiving Party at a location and in a secure manner that ensures that access is
26 limited to the persons authorized under this Order.

27 (d) Legal Advice Based on Protected Material. Nothing in this Protective
28 Order shall be construed to prevent counsel from advising their clients with respect to this case

1 based in whole or in part upon Protected Materials, provided counsel does not disclose the
2 Protected Material itself except as provided in this Order.

3 (e) Limitations. Nothing in this Order shall restrict in any way a Producing
4 Party's use or disclosure of its own Protected Material. Nothing in this Order shall restrict in any
5 way the use or disclosure of Discovery Material by a Receiving Party: (i) that is or has become
6 publicly known through no fault of the Receiving Party; (ii) that is lawfully acquired by or known
7 to the Receiving Party independent of the Producing Party; (iii) previously produced, disclosed
8 and/or provided by the Producing Party to the Receiving Party or a non-party without an
9 obligation of confidentiality and not by inadvertence or mistake; (iv) with the consent of the
10 Producing Party; or (v) pursuant to order of the Court.

11 7. **DESIGNATING PROTECTED MATERIAL**

12 (a) Available Designations. Any Producing Party may designate Discovery
13 Material with any of the following designations, provided that it meets the requirements for such
14 designations as provided for herein: "CONFIDENTIAL," "CONFIDENTIAL - ATTORNEYS'
15 EYES ONLY," or "CONFIDENTIAL – OUTSIDE ATTORNEYS' EYES ONLY - SOURCE
16 CODE."

17 (b) Written Discovery and Documents and Tangible Things. Written
18 discovery, documents (which include "electronically stored information," as that phrase is used in
19 Federal Rule of Procedure 34), and tangible things that meet the requirements for the
20 confidentiality designations listed in Paragraph 7(a) may be so designated by placing the
21 appropriate designation on every page of the written material prior to production. For digital files
22 being produced, the Producing Party may mark each viewable page or image with the appropriate
23 designation, and mark the medium, container, and/or communication in which the digital files
24 were contained. In the event that original documents are produced for inspection, the original
25 documents shall be presumed "CONFIDENTIAL – ATTORNEYS' EYES ONLY" during the
26 inspection and re-designated, as appropriate during the copying process.

27 (c) Native Files. Where electronic files and documents are produced in native
28 electronic format, such electronic files and documents shall be designated for protection under

1 this Order by appending to the file names or designators information indicating whether the file
2 contains “CONFIDENTIAL,” “CONFIDENTIAL - ATTORNEYS’ EYES ONLY,” or
3 “CONFIDENTIAL - OUTSIDE ATTORNEYS’ EYES ONLY - SOURCE CODE,” material, or
4 shall use any other reasonable method for so designating Protected Materials produced in
5 electronic format. When electronic files or documents are printed for use at deposition, in a court
6 proceeding, or for provision in printed form to an expert or consultant pre-approved pursuant to
7 paragraph 12, the party printing the electronic files or documents shall affix a legend to the
8 printed document corresponding to the designation of the Designating Party and including the
9 production number and designation associated with the native file. No one shall seek to use in
10 this litigation a .tiff, .pdf or other image format version of a document produced in native file
11 format without first (1) providing a copy of the image format version to the Producing Party so
12 that the Producing Party can review the image to ensure that no information has been altered, and
13 (2) obtaining the consent of the Producing Party, which consent shall not be unreasonably
14 withheld.

15 (d) Depositions and Testimony. Parties or testifying persons or entities may
16 designate depositions and other testimony with the appropriate designation by indicating on the
17 record at the time the testimony is given or by sending written notice of how portions of the
18 transcript of the testimony is designated within thirty (30) days of receipt of the final transcript of
19 the testimony. If no indication on the record is made, all information disclosed during a
20 deposition shall be deemed “CONFIDENTIAL – ATTORNEYS’ EYES ONLY” until the time
21 within which it may be appropriately designated as provided for herein has passed. Any Party
22 that wishes to disclose the transcript, or information contained therein, before thirty (30) days
23 after receipt of the final transcript may provide written notice of its intent to treat the transcript as
24 non-confidential, after which time, any Party that wants to maintain any portion of the transcript
25 as confidential must designate the confidential portions within the earlier of (1) thirty (30) days of
26 receipt of the final transcript, or (2) fourteen (14) days, or else the transcript may be treated as
27 non-confidential. Any Protected Material that is used in the taking of a deposition shall remain
28 subject to the provisions of this Protective Order, along with the transcript pages of the deposition

1 testimony dealing with such Protected Material. In such cases the court reporter shall be
2 informed of this Protective Order and shall be required to operate in a manner consistent with this
3 Protective Order. In the event the deposition is videotaped, the original and all copies of the
4 videotape shall be marked by the video technician to indicate that the contents of the videotape
5 are subject to this Protective Order, substantially along the lines of “This videotape contains
6 confidential testimony used in this case and is not to be viewed or the contents thereof to be
7 displayed or revealed except pursuant to the terms of the operative Protective Order in this matter
8 or pursuant to written stipulation of the parties.” Counsel for any Producing Party shall have the
9 right to exclude from oral depositions, other than the deponent, deponent’s counsel, the reporter
10 and videographer (if any), any person who is not authorized by this Protective Order to receive or
11 access Protected Material based on the designation of such Protected Material. Such right of
12 exclusion shall be applicable only during periods of examination or testimony regarding such
13 Protected Material.

14 8. **DISCOVERY MATERIAL DESIGNATED AS “CONFIDENTIAL”**

15 (a) A Producing Party may designate Discovery Material as
16 “CONFIDENTIAL” if it contains or reflects confidential, proprietary, and/or commercially
17 sensitive information that would cause substantial harm to a business or person if disseminated
18 publicly.

19 (b) Unless otherwise ordered by the Court, Discovery Material designated as
20 “CONFIDENTIAL” may be disclosed only to the following:

21 (i) The Receiving Party’s Outside Counsel, such counsel’s immediate
22 paralegals and staff, and any copying or clerical litigation support services working at the
23 direction of such counsel, paralegals, and staff;

24 (ii) Directors, officers, and employees of a party to this action, or any
25 witness in this action,;

26 (iii) Any outside expert or consultant retained by the Receiving Party to
27 assist in this action, provided that disclosure is only to the extent necessary to perform such work;
28 and provided that: (a) such expert or consultant has agreed to be bound by the provisions of the

1 Protective Order by signing a copy of Appendix A; (b) such expert or consultant is not a current
2 officer, director, or employee of a Party or of a competitor of a Party, nor anticipated at the time
3 of retention to become an officer, director or employee of a Party or of a competitor of a Party;;
4 and (c) no unresolved objections to such disclosure exist after proper notice has been given to all
5 Parties as set forth in Paragraph 12 below.

6 (iv) Court reporters, stenographers and videographers retained to record
7 testimony taken in this action;

8 (v) The Court, jury, and court personnel;

9 (vi) Graphics, translation, design, and/or trial consulting personnel,
10 having first agreed to be bound by the provisions of the Protective Order by signing a copy of
11 Appendix A;

12 (vii) Mock jurors who have signed an undertaking or agreement agreeing
13 not to publicly disclose Protected Material and to keep any information concerning Protected
14 Material confidential;

15 (viii) Any mediator who is assigned to hear this matter, and his or her
16 staff, subject to their agreement to maintain confidentiality to the same degree as required by this
17 Protective Order; and

18 (ix) Any other person with the prior written consent of the Producing
19 Party.

20 9. **DISCOVERY MATERIAL DESIGNATED AS “CONFIDENTIAL –**
21 **ATTORNEYS’ EYES ONLY”**

22 (a) A Producing Party may designate Discovery Material as
23 “CONFIDENTIAL – ATTORNEYS’ EYES ONLY” if it contains or reflects information that is
24 extremely confidential and/or sensitive in nature and the Producing Party reasonably believes that
25 the disclosure of such Discovery Material is likely to cause economic harm or significant
26 competitive disadvantage to the Producing Party. The Parties agree that the following
27 information, if non-public, shall be presumed to merit the “CONFIDENTIAL – ATTORNEYS’
28 EYES ONLY” designation: trade secrets, pricing information, financial data, sales information,

1 sales or marketing forecasts or plans, business plans, sales or marketing strategy, product
2 development information, engineering documents, testing documents, employee information, and
3 other non-public information of similar competitive and business sensitivity.

4 (b) Unless otherwise ordered by the Court, Discovery Material designated as
5 “CONFIDENTIAL – ATTORNEYS’ EYES ONLY” may be disclosed only to:

6 (i) The Receiving Party’s Outside Counsel, provided that such Outside
7 Counsel is not involved in competitive decision-making, as defined by U.S. Steel v. United States,
8 730 F.2d 1465, 1468 n.3 (Fed. Cir. 1984), on behalf of a Party or a competitor of a Party, and
9 such Outside Counsel’s immediate paralegals and staff, and any copying or clerical litigation
10 support services working at the direction of such counsel, paralegals, and staff;

11 (ii) Any outside expert or consultant retained by the Receiving Party to
12 assist in this action, provided that disclosure is only to the extent necessary to perform such work;
13 and provided that: (a) such expert or consultant has agreed to be bound by the provisions of the
14 Protective Order by signing a copy of Appendix A; (b) such expert or consultant is not a current
15 officer, director, or employee of a Party or of a competitor of a Party, nor anticipated at the time
16 of retention to become an officer, director, or employee of a Party or of a competitor of a Party;
17 (c) such expert or consultant is not involved in competitive decision-making, as defined by U.S.
18 Steel v. United States, 730 F.2d 1465, 1468 n.3 (Fed. Cir. 1984), on behalf of a Party or a
19 competitor of a Party;; and (d) no unresolved objections to such disclosure exist after proper
20 notice has been given to all Parties as set forth in Paragraph 12 below;

21 (iii) Court reporters, stenographers and videographers retained to record
22 testimony taken in this action;

23 (iv) The Court, jury, and court personnel;

24 (v) Graphics, translation, design, and/or trial consulting personnel,
25 having first agreed to be bound by the provisions of the Protective Order by signing a copy of
26 Appendix A;

27
28

1 (vi) Mock jurors who have signed an undertaking or agreement agreeing
2 not to publicly disclose Protected Material and to keep any information concerning Protected
3 Material confidential;

4 (vii) Any mediator who is assigned to hear this matter, and his or her
5 staff, subject to their agreement to maintain confidentiality to the same degree as required by this
6 Protective Order; and

7 (viii) Any other person with the prior written consent of the Producing
8 Party.

9 10. **DISCOVERY MATERIAL DESIGNATED AS “CONFIDENTIAL –**
10 **OUTSIDE ATTORNEYS’ EYES ONLY - SOURCE CODE”**

11 (a) To the extent production of Source Code becomes necessary to the
12 prosecution or defense of the case, a Producing Party may designate Source Code as
13 “CONFIDENTIAL – OUTSIDE ATTORNEYS’ EYES ONLY - SOURCE CODE” if it
14 comprises or includes confidential, proprietary, and/or trade secret Source Code.

15 (b) Nothing in this Order shall be construed as a representation or admission
16 that Source Code is properly discoverable in this action, or to obligate any Party to produce any
17 Source Code.

18 (c) Unless otherwise ordered by the Court, Discovery Material designated as
19 “CONFIDENTIAL – OUTSIDE ATTORNEYS’ EYES ONLY - SOURCE CODE” shall be
20 subject to the provisions set forth in Paragraph 11 below, and may be disclosed, subject to
21 Paragraph 11 below, solely to:

22 (i) The Receiving Party’s Outside Counsel, provided that such Outside
23 Counsel is not involved in competitive decision-making, as defined by U.S. Steel v. United States,
24 730 F.2d 1465, 1468 n.3 (Fed. Cir. 1984), on behalf of a Party or a competitor of a Party, and
25 such Outside Counsel’s immediate paralegals and staff, and any copying or clerical litigation
26 support services working at the direction of such counsel, paralegals, and staff;

27 (ii) Any outside expert or consultant retained by the Receiving Party to
28 assist in this action, provided that disclosure is only to the extent necessary to perform such work;

1 and provided that: (a) such expert or consultant has agreed to be bound by the provisions of the
2 Protective Order by signing a copy of Appendix A; (b) such expert or consultant is not a current
3 officer, director, or employee of a Party or of a competitor of a Party, nor anticipated at the time
4 of retention to become an officer, director or employee of a Party or of a competitor of a Party;
5 (c) such expert or consultant is not involved in competitive decision-making, as defined by U.S.
6 Steel v. United States, 730 F.2d 1465, 1468 n.3 (Fed. Cir. 1984), on behalf of a Party or a
7 competitor of a Party; and (d) no unresolved objections to such disclosure exist after proper notice
8 has been given to all Parties as set forth in Paragraph 12 below;

9 (iii) Court reporters, stenographers and videographers retained to record
10 testimony taken in this action;

11 (iv) The Court, jury, and court personnel;

12 (v) Any mediator who is assigned to hear this matter, and his or her
13 staff, subject to their agreement to maintain confidentiality to the same degree as required by this
14 Protective Order; and

15 (vi) Any other person with the prior written consent of the Producing
16 Party.

17 11. **DISCLOSURE AND REVIEW OF SOURCE CODE**

18 (a) Any Source Code that is produced by Plaintiff shall be made available for
19 inspection in electronic format at the Seattle office of its outside counsel, Susman Godfrey, LLP,
20 or any other location mutually agreed by the Parties. Any Source Code that is produced by
21 Defendant will be made available for inspection at the San Francisco office of its outside counsel,
22 Covington & Burling LLP, or any other location mutually agreed by the Parties. Source Code
23 will be made available for inspection between the hours of 8 a.m. and 6 p.m. on business days
24 (i.e., weekdays that are not Federal holidays), although the Parties will be reasonable in
25 accommodating reasonable requests to conduct inspections at other times.

26 (b) Prior to the first inspection of any requested Source Code, the Receiving
27 Party shall provide ten (10) business days' notice of the Source Code that it wishes to inspect.
28

1 The Receiving Party shall provide five (5) business days' notice prior to any additional
2 inspections.

3 (c) Source Code that is designated "CONFIDENTIAL – OUTSIDE
4 ATTORNEYS' EYES ONLY - SOURCE CODE" shall be produced for inspection and review
5 subject to the following provisions, unless otherwise agreed by the Producing Party:

6 (i) All Source Code shall be made available by the Producing Party to
7 the Receiving Party's outside counsel and/or experts in a secure room on a secured computer
8 without Internet access or network access to other computers and on which all access ports have
9 been disabled (except for one printer port), as necessary and appropriate to prevent and protect
10 against any unauthorized copying, transmission, removal or other transfer of any Source Code
11 outside or away from the computer on which the Source Code is provided for inspection (the
12 "Source Code Computer" in the "Source Code Review Room"). The Producing Party shall install
13 tools that are sufficient for viewing and searching the code produced, on the platform produced, if
14 such tools exist and are presently used in the ordinary course of the Producing Party's business.
15 The Receiving Party's outside counsel and/or experts may request that commercially available
16 software tools for viewing and searching Source Code be installed on the secured computer by the
17 Producing Party, provided, however, that (a) the Producing Party approves such software tools;
18 and (b) such other software tools are reasonably necessary for the Receiving Party to perform its
19 review of the Source Code consistent with all of the protections herein.

20 (ii) No recordable media or recordable devices, including without
21 limitation sound recorders, computers, cellular telephones, peripheral equipment, cameras, CDs,
22 DVDs, or drives of any kind, shall be permitted into the Source Code Review Room, except one
23 laptop with internet access and camera disabled, provided that such a laptop is used solely for
24 taking notes in a manner consistent with this Order.

25 (iii) The Receiving Party's outside counsel and/or experts shall be
26 entitled to take notes relating to the Source Code but may not copy the Source Code into the notes
27 and may not take such notes electronically on the Source Code Computer itself or any other
28 computer.

1 (iv) The Producing Party may visually monitor the activities of the
2 Receiving Party's representatives during any Source Code review, but only to ensure that no
3 unauthorized electronic records of the Source Code and no information concerning the Source
4 Code are being created or transmitted in any way.

5 (v) No copies of all or any portion of the Source Code may leave the
6 room in which the Source Code is inspected except as otherwise provided herein. Further, no
7 other written or electronic record of the Source Code is permitted except as otherwise provided
8 herein. The Producing Party shall make available a laser printer with commercially reasonable
9 printing speeds for on-site printing during inspection of the Source Code. The Receiving Party
10 may print limited portions of the Source Code only when reasonably necessary in connection with
11 this litigation. Any printed portion that consists of more than ten (10) pages of a continuous
12 block of Source Code, or that results in more than 100 pages of Source Code to be printed in total
13 by the Receiving Party, shall be presumed to be excessive, and the burden shall be on the
14 Receiving Party to demonstrate the need for such a printed copy. In the event that the Receiving
15 Party believes that printing more than 100 pages total is reasonably necessary in connection with
16 a permitted purpose as outlined in this paragraph, the Parties will negotiate in good faith to
17 resolve this issue. If the Parties are unable to do so, the Receiving Party may seek relief from the
18 Court. The Receiving Party shall not print Source Code in order to review blocks of Source Code
19 elsewhere in the first instance, i.e., as an alternative to reviewing that Source Code electronically
20 on the Source Code Computer, as the Parties acknowledge and agree that the purpose of the
21 protections herein would be frustrated by printing portions of code for review and analysis
22 elsewhere, and that printing is permitted only when necessary to prepare court filings or pleadings
23 or other papers (including a testifying expert's expert report). Upon printing any such portions of
24 Source Code, the printed pages shall be collected by the Producing Party. The Producing Party
25 shall Bates number, copy, and label "CONFIDENTIAL – OUTSIDE ATTORNEYS' EYES
26 ONLY - SOURCE CODE" any pages printed by the Receiving Party. Within two (2) business
27 days, the Producing Party shall either (i) provide one copy set of such pages to the Receiving
28 Party or (ii) inform the Requesting Party that it objects that the printed portions are excessive

1 and/or not done for a permitted purpose. If, after meeting and conferring, the Producing Party
2 and the Receiving Party cannot resolve the objection, the Receiving Party shall be entitled to seek
3 a Court resolution of whether the printed Source Code in question is narrowly tailored and was
4 printed for a permitted purpose. The printed pages shall constitute part of the Source Code
5 produced by the Producing Party in this action.

6 (vi) All persons who will review a Producing Party's Source Code on
7 behalf of a Receiving Party shall be identified in writing to the Producing Party at least five (5)
8 business days in advance of the first time that such person reviews such Source Code. Such
9 identification shall be in addition to any other disclosure required under this Order. All persons
10 viewing Source Code shall sign on each day they view Source Code a log that will include the
11 names of persons who enter the locked room to view the Source Code and when they enter and
12 depart. The Producing Party shall be entitled to a copy of the log upon two (2) business days'
13 advance notice to the Receiving Party.

14 (vii) Unless otherwise agreed in advance by the Parties in writing,
15 following each day on which inspection is done under this Order, the Receiving Party's outside
16 counsel and/or experts shall remove all notes, documents, and all other materials from the Source
17 Code Review Room. The Producing Party shall not be responsible for any items left in the room
18 following each inspection session, and the Receiving Party shall have no expectation of
19 confidentiality for any items left in the room following each inspection session without a prior
20 agreement to that effect. Proper identification of all authorized persons shall be provided prior to
21 any access to the secure room or the computer containing Source Code. Proper identification
22 requires showing, at a minimum, a photo identification card sanctioned by the government of any
23 State of the United States, by the government of the United States, or by the nation state of the
24 authorized person's current citizenship. Access to the secure room or the Source Code Computer
25 may be denied, at the discretion of the supplier, to any individual who fails to provide proper
26 identification.

27 (viii) Other than as provided above, the Receiving Party will not copy,
28 remove, or otherwise transfer any Source Code from the Source Code Computer including,

1 without limitation, copying, removing, or transferring the Source Code onto any recordable media
2 or recordable device. The Receiving Party will not transmit any Source Code in any way from
3 the Producing Party's facilities or the offices of its outside counsel of record.

4 (ix) The Receiving Party's outside counsel of record may make no more
5 than three (3) additional paper copies of any portions of the Source Code received from a
6 Producing Party pursuant to Paragraph 11(c)(v), not including copies attached to court filings or
7 used at depositions

8 (x) The Receiving Party's outside counsel of record and any person
9 receiving a copy of any Source Code shall maintain and store any paper copies of the Source
10 Code at their offices in a manner that prevents duplication of or unauthorized access to the Source
11 Code.

12 (xi) Copies of Source Code that are marked as deposition exhibits shall
13 not be provided to the Court Reporter or attached to deposition transcripts; rather, the deposition
14 record will identify the exhibit by its production numbers. All paper copies of Source Code
15 brought to the deposition shall remain with the Producing Party's counsel or Receiving Party's
16 counsel following the deposition.

17 (xii) Except as provided in this sub-paragraph, absent express written
18 permission from the Producing Party, the Receiving Party may not create electronic images, or
19 any other images, or make electronic copies, of the Source Code from any paper copy of Source
20 Code for use in any manner (including by way of example only, the Receiving Party may not scan
21 the Source Code to a PDF or photograph the code). Images or copies of Source Code shall not be
22 included in correspondence between the Parties (references to production numbers shall be used
23 instead), and shall be omitted from pleadings and other papers whenever possible. If a Party
24 reasonably believes that it needs to submit a portion of Source Code as part of a filing with the
25 Court, such Source Code will not be filed except (1) under seal or (2) with agreement from the
26 Producing Party that alternative confidentiality protections will be adequate. If a Producing Party
27 agrees to produce an electronic copy of all or any portion of its Source Code or provide written
28 permission to the Receiving Party that an electronic or any other copy needs to be made for a

1 Court filing, access to the Receiving Party's submission, communication, and/or disclosure of
2 electronic files or other materials containing any portion of Source Code (paper or electronic)
3 shall at all times be limited solely to individuals who are expressly authorized to view Source
4 Code under the provisions of this Order. Additionally, any such electronic copies must be labeled
5 "CONFIDENTIAL - ATTORNEYS' EYES ONLY - SOURCE CODE" as provided for in this
6 Order.

7 12. **NOTICE OF DISCLOSURE**

8 (a) Prior to disclosing any Protected Material to any person described in
9 Paragraphs 8(b)(iii) or 10(c)(ii) (referenced below as "Person"), the Party seeking to disclose such
10 information shall provide the Producing Party with written notice that includes:

- 11 (i) the name of the Person;
- 12 (ii) an up-to-date curriculum vitae of the Person;
- 13 (iii) the present employer and title of the Person;
- 14 (iv) an identification of all of the Person's past and current employment and consulting
15 relationships for the prior three (3) years, including direct relationships and
16 relationships through entities owned or controlled by the Person, including but not
17 limited to an identification of any individual or entity with or for whom the person is
18 employed or to whom the person provides consulting services relating to the design,
19 development, operation, or patenting of GPS navigation systems, or relating to the
20 acquisition of intellectual property assets relating to GPS navigation systems;
- 21 (v) an identification by application or serial number of all pending patent applications on
22 which the Person is named as an inventor, in which the Person has any ownership
23 interest, or as to which the Person has had or anticipates in the future any involvement
24 in advising on, consulting on, preparing, prosecuting, drafting, editing, amending, or
25 otherwise affecting the scope of the claims; and
- 26 (vi) a list of the cases in which the Person has testified at deposition or trial within the last
27 five (5) years.

28 Further, the Party seeking to disclose Protected Material shall provide such other information

1 regarding the Person's professional activities reasonably requested by the Producing Party for it
2 to evaluate whether good cause exists to object to the disclosure of Protected Material to the
3 outside expert or consultant.

4 (b) Within eight (8) business days of receipt of the disclosure of the Person,
5 the Producing Party or Parties may object in writing to the Person for good cause. In the absence
6 of an objection at the end of the eight (8) day period, the Person shall be deemed approved under
7 this Protective Order. There shall be no disclosure of Protected Material to the Person prior to
8 expiration of this eight (8) day period. If the Producing Party objects to disclosure to the Person
9 within such eight (8) day period, the Parties shall meet and confer via telephone or in person
10 within three (3) business days following the objection and attempt in good faith to resolve the
11 dispute on an informal basis. If the dispute is not resolved, the Party objecting to the disclosure
12 will have three (3) business days from the date of the meet and confer to seek relief from the
13 Court. If relief is not sought from the Court within that time, the objection shall be deemed
14 withdrawn. If relief is sought, designated materials shall not be disclosed to the Person in
15 question until the Court resolves the objection.

16 (c) For purposes of this section, "good cause" shall include an objectively
17 reasonable concern that the Person will, advertently or inadvertently, use or disclose Discovery
18 Materials in a way or ways that are inconsistent with the provisions contained in this Order.

19 (d) Prior to receiving any Protected Material under this Order, the Person must
20 execute a copy of the "Agreement to Be Bound by Protective Order" (Appendix A hereto) and
21 serve it on all Parties.

22 (e) An initial failure to object to a Person under this Paragraph 12 shall not
23 preclude the nonobjecting Party from later objecting to continued access by that Person for good
24 cause. If an objection is made, the Parties shall meet and confer via telephone or in person within
25 two (2) business days following the objection and attempt in good faith to resolve the dispute
26 informally. If the dispute is not resolved, the Party objecting to the disclosure will have two (2)
27 business days from the date of the meet and confer to seek relief from the Court. The designated
28

1 Person may continue to have access to information that was provided to such Person prior to the
2 date of the objection.

3 13. **CHALLENGING DESIGNATIONS OF PROTECTED MATERIAL**

4 (a) A Party shall not be obligated to challenge the propriety of any designation
5 of Discovery Material under this Order at the time the designation is made, and a failure to do so
6 shall not preclude a subsequent challenge thereto.

7 (b) Any challenge to a designation of Discovery Material under this Order
8 shall be written, shall be served on outside counsel for the Producing Party, shall particularly
9 identify the documents or information that the Receiving Party contends should be differently
10 designated, and shall state the grounds for the objection. Thereafter, further protection of such
11 material shall be resolved in accordance with the following procedures:

12 (i) The objecting Party shall have the burden of conferring either in
13 person or by telephone with the Producing Party claiming protection (as well as any other
14 interested party) in a good faith effort to resolve the dispute. The Producing Party shall have the
15 burden of justifying the disputed designation;

16 (ii) Failing agreement, the Receiving Party may bring a motion to the
17 Court for a ruling that the Discovery Material in question is not entitled to the status and
18 protection of the Producing Party's designation. The Parties' entry into this Order shall not
19 preclude or prejudice either Party from arguing for or against any designation, establish any
20 presumption that a particular designation is valid, or alter the burden of proof that would
21 otherwise apply in a dispute over discovery or disclosure of information;

22 (iii) Notwithstanding any challenge to a designation, the Discovery
23 Material in question shall continue to be treated as designated under this Order until one of the
24 following occurs: (a) the Party who designated the Discovery Material in question withdraws
25 such designation in writing; or (b) the Court rules that the Discovery Material in question is not
26 entitled to the designation.

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1 14. **SUBPOENAS OR COURT ORDERS**

2 (a) If at any time Protected Material is subpoenaed by any court, arbitral,
3 administrative, or legislative body, the Party to whom the subpoena or other request is directed
4 shall immediately give prompt written notice thereof to every Party who has produced such
5 Discovery Material and to its counsel and shall provide each such Party with an opportunity to
6 move for a protective order regarding the production of Protected Materials implicated by the
7 subpoena.

8 15. **FILING PROTECTED MATERIAL**

9 (a) Absent written permission from the Producing Party, a sealed filing
10 pursuant to the Local Rules of the United States District Court for the Northern District of
11 California, or a court Order secured after appropriate notice to all interested persons, a Receiving
12 Party may not file or disclose in the public record any Protected Material.

13 (b) Any Party is authorized under Local Rule 1.09 to file under seal with the
14 Court any brief, document or materials that are designated as Protected Material under this Order.
15 No party shall file a document under seal without first having obtained an order granting leave to
16 file under seal on a showing of particularized need. However, nothing in this section shall in any
17 way limit or detract from this Order's requirements as to Source Code.

18 16. **INADVERTENT DISCLOSURE OF PRIVILEGED MATERIAL**

19 (a) Nothing in this Protective Order shall require production of information
20 that a party contends is protected from disclosure by the attorney-client privilege, the work
21 product immunity or other privilege, doctrine, right, or immunity. Pursuant to Fed. R. Evid.
22 502(d), the production by a Party of Discovery Material subject to the attorney-client privilege,
23 work-product protection, or any other applicable privilege or protection, despite the Producing
24 Party's reasonable efforts to prescreen such Discovery Material prior to production, will not
25 waive the applicable privilege and/or protection in this case or in any other federal or state
26 proceeding. For example, the mere production of privilege or work-product-protected documents
27 in this case as part of a mass production is not itself a waiver in this case or any other federal or
28 state proceeding. A producing party may assert privilege or protection over produced documents

1 at any time by notifying the receiving party in writing of the assertion of privilege or protection,
2 provided that the waiver was not intentional and the waiver was not based on a failure to assert
3 privilege at deposition or using the disclosed documents as exhibits for briefings or at trial.

4 (b) Upon a request from any Producing Party who has produced Discovery
5 Material that it believes is privileged and/or protected, each Receiving Party shall immediately
6 return such Protected Material or Discovery Material and all copies to the Producing Party, except
7 for any pages containing privileged markings by the Receiving Party which shall instead be
8 destroyed and certified as such by the Receiving Party to the Producing Party.

9 (c) Nothing herein shall prevent the Receiving Party from preparing a record
10 for its own use containing the date, author, addresses, and topic of the produced Discovery
11 Material and such other information as is reasonably necessary to identify the Discovery Material
12 and describe its nature to the Court in any motion to compel production of the Discovery
13 Material.

14 17. **INADVERTENT FAILURE TO DESIGNATE PROPERLY**

15 (a) The inadvertent failure by a Producing Party to designate Discovery
16 Material as Protected Material with one of the designations provided for under this Order shall
17 not waive any such designation provided that the Producing Party notifies all Receiving Parties
18 that such Discovery Material is protected under one of the categories of this Order within
19 three (3) business days of the Producing Party learning of the inadvertent failure to designate.
20 The Producing Party shall reproduce the Protected Material with the correct confidentiality
21 designation within three (3) business days upon its notification to the Receiving Parties. Upon
22 receiving the Protected Material with the correct confidentiality designation, the Receiving
23 Parties shall return or securely destroy all Discovery Material that was not designated properly.

24 (b) A Receiving Party shall not be in breach of this Order for any use of such
25 Discovery Material before the Receiving Party receives such notice that such Discovery Material
26 is protected under one of the categories of this Order, unless an objectively reasonable person
27 would have realized that the Discovery Material should have been appropriately designated with a
28 confidentiality designation under this Order. Once a Receiving Party has received notification of

1 the correct confidentiality designation for the Protected Material with the correct confidentiality
2 designation, the Receiving Party shall treat such Discovery Material (subject to the exception in
3 Paragraph 17(c) below) at the appropriately designated level pursuant to the terms of this Order.

4 (c) Notwithstanding the above, a subsequent designation of
5 “CONFIDENTIAL,” “CONFIDENTIAL – ATTORNEYS’ EYES ONLY” or “CONFIDENTIAL
6 – ATTORNEYS’ EYES ONLY – SOURCE CODE” shall apply on a going forward basis and
7 shall not disqualify anyone who reviewed “CONFIDENTIAL,” “CONFIDENTIAL –
8 ATTORNEYS’ EYES ONLY” or “CONFIDENTIAL – ATTORNEYS’ EYES ONLY –
9 SOURCE CODE” materials while the materials were not marked “CONFIDENTIAL –
10 ATTORNEYS’ EYES ONLY” or “CONFIDENTIAL – ATTORNEYS’ EYES ONLY –
11 SOURCE CODE” from engaging in the activities set forth in Paragraph 6(b).

12 18. **INADVERTENT DISCLOSURE NOT AUTHORIZED BY ORDER**

13 (a) In the event of a disclosure of any Discovery Material pursuant to this
14 Order to any person or persons not authorized to receive such disclosure under this Protective
15 Order, the disclosing Party shall also promptly take all reasonable measures to retrieve the
16 improperly disclosed Discovery Material and to ensure that no further or greater unauthorized
17 disclosure and/or use thereof is made

18 (b) Unauthorized or inadvertent disclosure does not change the status of
19 Discovery Material or waive the right to hold the disclosed document or information as Protected.

20 19. **FINAL DISPOSITION**

21 (a) Not later than ninety (90) days after the Final Disposition of this case, each
22 Party shall return all Discovery Material of a Producing Party to the respective outside counsel of
23 the Producing Party or destroy such Material. For purposes of this Order, “Final Disposition”
24 occurs after an order, mandate, or dismissal finally terminating the above-captioned action with
25 prejudice, including all appeals.

26 (b) All Parties that have received any such Discovery Material shall certify in
27 writing that all such materials have been returned to the respective outside counsel of the
28 Producing Party or destroyed. Notwithstanding the provisions for return of Discovery Material,

1 outside counsel may retain one set of pleadings, correspondence and attorney and consultant work
2 product (but not document productions) for archival purposes, but must return or destroy any
3 correspondence, and consultant work product that contain Source Code.

4 20. **DISCOVERY FROM EXPERTS OR CONSULTANTS**

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

9 (b) Discovery of materials provided to testifying experts shall be limited to
10 those materials set forth in the Federal Rules of Civil Procedure.

11 (c) Materials, communications, and other information exempt from discovery
12 under the foregoing Paragraphs 20(a)–(b) shall be treated as attorney-work product for the
13 purposes of this litigation and Order.

14 (d) Nothing in Protective Order, including Paragraphs 20(a)–(b), shall alter or
15 change in any way the requirements in Paragraph 11 regarding Source Code, and Paragraph 11
16 shall control in the event of any conflict.

17 21. **MISCELLANEOUS**

18 (a) Right to Further Relief. Nothing in this Order abridges the right of any
19 person to seek its modification by the Court in the future. By stipulating to this Order, the Parties
20 do not waive the right to argue that certain material may require additional or different
21 confidentiality protections than those set forth herein.

22 (b) Termination of Matter and Retention of Jurisdiction. The Parties agree that
23 the terms of this Protective Order shall survive and remain in effect after the Final Determination
24 of the above-captioned matter. The Court shall retain jurisdiction after Final Determination of
25 this matter to hear and resolve any disputes arising out of this Protective Order.

26 (c) Successors. This Order shall be binding upon the Parties hereto, their
27 attorneys, and their successors, executors, personal representatives, administrators, heirs, legal
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1 representatives, assigns, subsidiaries, divisions, employees, agents, retained consultants and
2 experts, and any persons or organizations over which they have direct control.

3 (d) Right to Assert Other Objections. By stipulating to the entry of this
4 Protective Order, no Party waives any right it otherwise would have to object to disclosing or
5 producing any information or item. Similarly, no Party waives any right to object on any ground
6 to use in evidence of any of the material covered by this Protective Order. This Order shall not
7 constitute a waiver of the right of any Party to claim in this action or otherwise that any
8 Discovery Material, or any portion thereof, is privileged or otherwise non-discoverable, or is not
9 admissible in evidence in this action or any other proceeding.

10 (e) Modification by Court. This Order is subject to further court order based
11 upon public policy or other considerations, and the Court may modify this Order sua sponte in the
12 interests of justice. The United States District Court for the Northern District of California is
13 responsible for the interpretation and enforcement of this Order. All disputes concerning
14 Protected Material, however designated, produced under the protection of this Order shall be
15 resolved by the United States District Court for the Northern District of California.

16 (f) Discovery Rules Remain Unchanged. Nothing herein shall alter or change
17 in any way the discovery provisions of the Federal Rules of Civil Procedure, the Local Rules for
18 the United States District Court for the Northern District of California, or the Court's own orders.
19 Identification of any individual pursuant to this Protective Order does not make that individual
20 available for deposition or any other form of discovery outside of the restrictions and procedures
21 of the Federal Rules of Civil Procedure, the Local Rules for the United States District Court for
22 Northern District of California, or the Court's own orders.

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1 **IT IS SO STIPULATED.**

2 Dated: February 25, 2015

Dated: February 25, 2015

3
4 By: /s/ Barry Barnett

By: /s/ David Almeling

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SAMSUNG ELECTRONICS AMERICA,
INC.

35 Attorneys for Plaintiff
36 AMERICAN NAVIGATION SYSTEMS, INC.

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ATTORNEY ATTESTATION

Pursuant to Civil L.R. 5-1(i)(3), I attest under penalty of perjury that concurrence in the filing of this document has been obtained from each of its signatories.

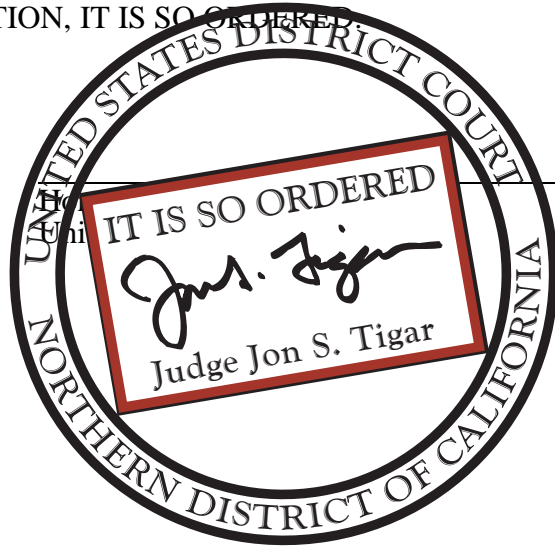
Dated: February 25, 2015

By: /s/ David Almeling
David Almeling

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PURSUANT TO THE STIPULATION, IT IS SO ORDERED.

Dated: March 11, 2015



1 UNITED STATES DISTRICT COURT
2 NORTHERN DISTRICT OF CALIFORNIA
3 SAN FRANCISCO DIVISION
4

5 AMERICAN NAVIGATION SYSTEMS,
6 INC.,

7 Plaintiff,

8 v.

9 SAMSUNG ELECTRONICS CO., LTD.,
10 SAMSUNG ELECTRONICS AMERICA,
11 INC., and SAMSUNG
12 TELECOMMUNICATIONS AMERICA,
13 LLC,

14 Defendants.

Case No. 3:14-cv-05298-JST

APPENDIX A

**UNDERTAKING OF EXPERTS OR
CONSULTANTS REGARDING
PROTECTIVE ORDER**

15 I, _____, acknowledge and declare that I have received a copy of the
16 Stipulated Protective Order (“Order”) in American Navigations Systems, Inc. v. Samsung
17 Electronics Co., LTD, et al., United States District Court, Northern District of California, San
18 Francisco Division, Case No. 3:14-cv-05298-JST. Having read and understood the terms of the
19 Order, I agree to be bound by the terms of the Order and consent to the jurisdiction of said Court
20 for the purpose of any proceeding to enforce the terms of the Order.

21 Name of individual: _____

22 Present occupation/job description: _____

23 Name of Company or Firm: _____

24 Address: _____

25 Dated: _____

26 _____
[Signature]