

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

NOKIA CORPORATION

Plaintiff,

v.

APPLE INC.

Defendant.

C.A. No. 09-791-GMS

APPLE INC.

Counterclaim-Plaintiff,

v.

NOKIA CORPORATION and NOKIA INC.,

Counterclaim-Defendants.

[PROPOSED] JOINT PROTECTIVE ORDER

1. PURPOSES AND LIMITATIONS

This Protective Order (the “Order”) governs the production or exchange of documents and other discovery materials in connection with the above-captioned action (the “Action”) by or between the Parties and any third parties, either through the formal discovery process or informally. If discovery is sought from third parties in connection with this litigation between the Parties, and this discovery would require a third party to disclose and/or produce Confidential or Highly Confidential Information, that third party may gain the protections of this Order through a written agreement by that third party to produce documents or information pursuant to this Order and to be bound by it. Under such agreement, the Parties hereto will be bound by this Order with respect to all Confidential or Highly Confidential Information produced by that third party.

2. DEFINITIONS

2.1 Party: any party to this Action, including all of its officers, directors, employees, consultants, retained experts, and in-house counsel (and their support staff).

2.2 Discovery Material: all items or information, regardless of the medium or manner generated, stored, or maintained (including, among other things, testimony, transcripts, or tangible things) that are produced in discovery in this Action.

2.3 “CONFIDENTIAL” Information or Items: information (regardless of how generated, stored or maintained) or tangible things the Designating Party believes in good faith is not generally known to others, and that the Designating Party (i) would not normally reveal to third parties except in confidence, or has undertaken with others to maintain in confidence; or (ii) believes in good faith is protected by a right to privacy under federal or state law, or any other applicable privilege or right related to confidentiality or privacy.

2.4 “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY” Information or Items: highly sensitive “Confidential Information or Items,” the disclosure of which to another Party or non-party would create a risk of competitive injury to the Producing Party. Highly Confidential Information designations should be used only for sensitive technical, financial, competitive, or personnel information, which is not generally known by third parties and that the Producing Party would not normally reveal to third parties or would require third parties to maintain in confidence either by agreements, policies, or procedures. For example, Highly Confidential Information may include, but is not limited to, materials such as design files, design drawings, design specifications, manufacturing techniques, laboratory notebooks, prototypes, materials submitted to regulatory agencies, financial and accounting information that is not made publicly available, business and marketing plans or analyses, licenses, surveys,

customer communications, meeting minutes, employment records, training materials, information obtained from a third party pursuant to a current Non-Disclosure Agreement, and similar information provided that the materials meet the foregoing requirements.

2.5 “HIGHLY CONFIDENTIAL – SOURCE CODE” Information or Items: include human-readable programming language text that defines software, firmware, or electronic hardware descriptions. HIGHLY CONFIDENTIAL – SOURCE CODE includes, without limitation, computer code; scripts; assembly; object code; source code listings and descriptions of source code; object code listings and descriptions of object code; Hardware Description Language (HDL); Register Transfer Level (RTL) files that describe the hardware design of any ASIC or other chip; similarly sensitive implementation details; files containing text written in “C,” “C+,” assembler, VHDL, Verilog, and digital signal processor (DSP) programming languages; “.include files;” “make” files; link files; and other human-readable text files used in the generation and/or building of software directly executed on a microprocessor, microcontroller, or DSP. The restrictions herein on HIGHLY CONFIDENTIAL – SOURCE CODE do not apply to publicly-available source code available as open source source code.

2.6 Receiving Party: a Party that receives Discovery Material from a Producing Party.

2.7 Producing Party: a Party or non-party that produces Discovery Material in this Action.

2.8 Designating Party: a Party or non-party that designates information or items that is produced in disclosures or in responses to discovery as “CONFIDENTIAL,” “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY,” or “HIGHLY CONFIDENTIAL – SOURCE CODE.”

2.9 Challenging Party: a Party that elects to initiate a challenge to a Designating Party's confidentiality designation.

2.10 Protected Material: any Discovery Material that is designated as "CONFIDENTIAL," "HIGHLY CONFIDENTIAL – ATTORNEYS' EYES ONLY," or "HIGHLY CONFIDENTIAL – SOURCE CODE."

2.11 Outside Counsel: attorneys who are not employees of a Party, but who are retained to represent or advise a Party in this Action.

2.12 In-house Counsel: attorneys who are employees of a Party.

2.13 Counsel (without qualifier): Outside Counsel and In-house Counsel (as well as their necessary support staff).

2.14 Outside Consultant: a person with specialized knowledge or experience in a matter pertinent to the Action who has been retained by, or at the direction of, a Party or its Counsel to serve as an expert witness or as a consultant in this Action, and who is not a current employee or non-litigation consultant of a Party or of a competitor of a Party and who, at the time of retention, is not anticipated to become an employee or non-litigation consultant of a Party or of a competitor of a Party.

2.15 Professional Vendors: persons or entities that provide litigation support services (*e.g.*, photocopying, videotaping, translating, preparing exhibits or demonstrations, organizing, storing, retrieving data in any form or medium etc.) and their employees and subcontractors, and who are not current employees of a Party or of a competitor of a Party, and who, at the time of retention, are not anticipated to become employees of a Party or of a competitor of a Party. This definition includes ESI vendors, professional jury or trial consultants retained in connection with this Action, and mock jurors retained by such consultants to assist

them in their work. Professional Vendors do not include consultants who fall within the definition of Outside Consultant.

3. SCOPE AND APPLICABILITY

All documents, materials, items, testimony or information designated as “CONFIDENTIAL,” “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY,” and “HIGHLY CONFIDENTIAL – SOURCE CODE,” regardless of whether stored in electronic or paper form, produced or filed with the Court, submitted to the Court in connection with a hearing or trial, or produced or served either by a Party or a third party, to or for any of the other Parties, shall be governed by this Protective Order and used only for the purposes of this Action and not for any business, patent prosecution, competitive or governmental purpose or function, and shall not be disclosed to anyone except as provided in this Protective Order, absent a specific order by the Court.

The protections conferred by this Order cover not only Protected Material (as defined above), but also any information copied or extracted therefrom, as well as all copies, excerpts, summaries, or compilations thereof. Nothing herein shall alter or change in any way the discovery provisions of the Federal Rules of Civil Procedure. Identification of any individual pursuant to this Protective Order does not make that individual available for deposition or any other form of discovery outside of the restrictions and procedures of the Federal Rules of Civil Procedure or the Local Rules of the United States District Court for the District of Delaware.

4. DURATION

The confidentiality obligations imposed by this Order shall remain in effect until a Designating Party agrees otherwise in writing or a court order otherwise directs.

5. DESIGNATING PROTECTED MATERIAL

5.1 Manner and Timing of Designations. Except as otherwise provided in this Order, or as otherwise stipulated or ordered, Discovery Material that qualifies for protection under this Order must be clearly so designated before being disclosed or produced. Designation in conformity with this Order:

(a) for information in documentary form (apart from transcripts of depositions or other pretrial or trial proceedings), the Producing Party shall affix the legend “CONFIDENTIAL,” “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY,” or “HIGHLY CONFIDENTIAL – SOURCE CODE” on each document that contains Protected Material. Unless otherwise indicated, the designation of confidentiality shall apply to the entire document. If only a portion or portions of the document qualifies for protection, the Producing Party also must clearly identify the protected portion(s) and must specify, for each portion, the level of protection being asserted “CONFIDENTIAL,” “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY,” or “HIGHLY CONFIDENTIAL – SOURCE CODE”.

(b) for testimony given in deposition or in other pretrial or trial proceedings, the Party or non-party offering or sponsoring the testimony shall identify on the record all Protected Material and further specify any portions of the testimony that qualify as “CONFIDENTIAL,” “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY,” or “HIGHLY CONFIDENTIAL – SOURCE CODE.” When impractical to identify separately each portion of testimony that is entitled to protection, and when substantial portions of the testimony may qualify for protection, the Party or non-party that sponsors, offers, or gives the testimony may invoke on the record a right to designate the entire testimony or particular topic thereof “CONFIDENTIAL,” “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY,” or

“HIGHLY CONFIDENTIAL – SOURCE CODE.” Testimony in a deposition may also be designated “CONFIDENTIAL,” “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY,” or “HIGHLY CONFIDENTIAL – SOURCE CODE” by notifying the deposing party in writing within fourteen (14) calendar days of the conclusion of the deposition. No deposition may be read or produced to anyone other than the deponent, Outside Counsel, and those qualified to see “HIGHLY CONFIDENTIAL – SOURCE CODE” material under Paragraph 7 during the fourteen (14) calendar day period following a deposition unless otherwise agreed upon among the Outside Counsel. Upon being informed that certain portions of a deposition disclose either “CONFIDENTIAL,” “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY,” or “HIGHLY CONFIDENTIAL – SOURCE CODE” information, each party must cause each copy of the transcript in its custody or control to promptly be marked with the appropriate designation.

Transcript pages containing Protected Material must contain on each page the legend “CONFIDENTIAL,” “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY,” or “HIGHLY CONFIDENTIAL – SOURCE CODE,” as instructed by the Party or non-party offering or sponsoring the witness or presenting the testimony.

(c) for electronic documents and other electronic files, the Producing Party shall affix the legend “CONFIDENTIAL,” “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY,” or “HIGHLY CONFIDENTIAL – SOURCE CODE” as appropriate to the media containing the documents, or by indicating in writing those documents designated as “CONFIDENTIAL,” “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY,” or “HIGHLY CONFIDENTIAL – SOURCE CODE.”

(d) for information produced in some form other than documentary, and for any other tangible items, the Producing Party shall affix in a prominent place on the

exterior of the container or containers in which the information or item is stored the legend “CONFIDENTIAL,” “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY,” or “HIGHLY CONFIDENTIAL – SOURCE CODE.” If only portions of the information or item warrant protection, the Producing Party, to the extent practicable, shall identify the protected portions, specifying whether they qualify as “CONFIDENTIAL,” “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY,” or “HIGHLY CONFIDENTIAL – SOURCE CODE.”

5.2 Inadvertent Failure to Designate. The inadvertent or unintentional production by the Producing Party, or any third party subject to an obligation of confidentiality, of confidential material or information without designating such material or information as “CONFIDENTIAL,” “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY,” or “HIGHLY CONFIDENTIAL – SOURCE CODE” shall not be deemed a waiver in whole or in part of a party’s claim of confidentiality, either as to that specific information or as to any other information. In the event that the Producing Party discovers that it or a third party subject to an obligation of confidentiality inadvertently or unintentionally provided Confidential Information without designation or with an improper designation, that party shall, within ten (10) business days of learning of the disclosure, by letter sent to opposing counsel, designate all documents or portions thereto containing such information “CONFIDENTIAL,” “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY,” or “HIGHLY CONFIDENTIAL – SOURCE CODE” subject to the protections of this Order, and the Receiving Party shall make all reasonable efforts to assure that the material is treated in accordance with the provisions of this Order. If inadvertently or unintentionally provided Confidential Information has been disclosed by a Receiving Party in any filing, motion, hearing, trial or proceeding, then the Receiving Party, after being duly notified by letter, shall, to the extent necessary, designate all documents or portions

containing such information as “CONFIDENTIAL,” “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY,” or “HIGHLY CONFIDENTIAL – SOURCE CODE.” To the extent this Confidential Information was submitted in a filing or motion, the party submitting the filing shall cooperate in any motion or request to the Court to seal such information, in accordance with the Court’s rules and procedures. If inadvertently or unintentionally provided Confidential Information has been disclosed by the Receiving Party to any person (including employees of the Receiving Party) that would not be entitled pursuant to Paragraph 7 to receive the Confidential Information as designated pursuant to this Paragraph, the Requesting Party shall (a) use its best efforts to retrieve all copies of the Confidential Information; (b) inform the person or persons to whom the disclosures were made of all the terms of this Order, and (c) request that such person or persons execute the “Acknowledgment and Agreement to Be Bound By Protective Order” that is attached hereto as Exhibit A. Nothing herein shall prevent the Receiving Party from challenging the propriety of the designation of the documents by submitting a written challenge to the Court.

5.3 Inadvertent Production of Work Product or Privileged Information. Any inadvertent disclosure or production of document(s) shall not be deemed a waiver of, nor prejudice to, any privilege or immunity with respect to such information or document(s) or of any work product doctrine or other immunity that may attach thereto, including without limitation the attorney-client privilege, the joint defense privilege, and the work product doctrine, provided that the producing party notifies the receiving party in writing promptly after discovery of such inadvertent production. All copies of such document(s) shall be returned to the Producing Party or destroyed within five (5) calendar days of such notice. Also within five (5) calendar days of such notice, the Producing Party shall serve a privilege log for the document(s).

The Producing Party shall maintain the referenced document(s) until the parties resolve any dispute concerning the privileged nature of such documents or the Court rules on any motion to compel such documents. If a dispute arises concerning the privileged nature of the document(s) demanded or returned, the parties shall meet and confer in good faith in an effort to resolve the dispute. If the parties are unable to resolve the dispute, the receiving party may file a motion to compel the production of such document(s). In the event of such a motion to compel, the Producing Party shall have the burden to demonstrate the claimed privilege, work product immunity or other immunity. However, in no case will the return of any demanded document be delayed or refused by reason of a party's objection to the demand or by the filing of a motion to compel, nor may a party assert the fact of the inadvertent production as a ground for any such motion. The responding party shall not use or refer to any information contained within the document(s) at issue, including in deposition or at trial or in any Court filing, unless and until such a motion to compel that document is granted by a Court, except as such information may appear in any applicable privilege log.

6. CHALLENGING CONFIDENTIALITY DESIGNATIONS

6.1 Objections to Confidentiality Designations and Judicial Intervention. Any party may object to the designation of particular "CONFIDENTIAL," "HIGHLY CONFIDENTIAL – ATTORNEYS' EYES ONLY," or "HIGHLY CONFIDENTIAL – SOURCE CODE" information by identifying the information to which the objection is made in a written notice to the party designating the disputed information. However, a Party shall not be obligated to challenge the propriety of such designations at the time made, and the failure to do so shall not preclude a subsequent challenge thereto. If the parties cannot resolve the objection, it shall be the obligation of the party challenging the "CONFIDENTIAL," "HIGHLY

CONFIDENTIAL – ATTORNEYS’ EYES ONLY,” or “HIGHLY CONFIDENTIAL – SOURCE CODE” designation to file and serve a motion in compliance with Local Rule 5.1.3, if applicable, that identifies the challenged material and sets forth in detail the basis for the challenge.

6.2 Meet and Confer. A Party that elects to initiate a challenge to a Designating Party’s confidentiality designation, or Challenging Party, must do so in good faith and must begin the process by conferring with the Designating Party. In conferring, the Challenging Party must explain the basis for its belief that the confidentiality designation was not proper and must give the Designating Party an opportunity to review the designated material, to reconsider the circumstances, and, if no change in designation is offered, to explain the basis for the chosen designation. The Designating Party must cooperate in scheduling such conference. If the Designating Party is unavailable to meet and confer within a reasonable amount of time or fails to cooperate in scheduling the conference, the Challenging Party may proceed to file its motion with the Court.

6.3 Judicial Intervention. A Party that elects to initiate a challenge to a confidentiality designation after considering the justification offered by the Designating Party may file and serve a motion in compliance with Local Rule 5.1.3, if applicable, that identifies the challenged material and sets forth in detail the basis for the challenge. Each such motion must be accompanied by a competent declaration that affirms that the movant has complied with the meet and confer requirements imposed in the preceding paragraph and that sets forth with specificity the justification for the confidentiality designation that was given by the Designating Party in the meet and confer dialogue. The burden of persuasion in any such challenge proceeding shall be on the Designating Party to establish that the information is, in fact, properly designated . Until

the Court rules on the challenge, all parties shall continue to afford the material in question the level of protection to which it is entitled under the Designating Party's designation.

7. PRESERVATION AND USE OF PROTECTED MATERIAL

7.1 Basic Principles. A Receiving Party may use Protected Material that is disclosed or produced by another Party or by a non-party in connection with this case only for the purposes of this Action and not for any business, patent prosecution, competitive or governmental purpose or function, and shall not be disclosed to anyone except as provided in this Order absent a specific order by the Court. When the Action has been terminated, a Receiving Party must comply with the provisions of Section 12 below (FINAL DISPOSITION).

Except as otherwise provided in Paragraph 8, all "CONFIDENTIAL," "HIGHLY CONFIDENTIAL – ATTORNEYS' EYES ONLY," or "HIGHLY CONFIDENTIAL – SOURCE CODE" material or information shall be maintained under the control of Outside Counsel, who shall make best efforts to prevent any disclosure thereof except in accordance with the terms of this Order.

7.2 Disclosure of "CONFIDENTIAL" Information or Items. Unless otherwise ordered by the Court or permitted in writing by the Designating Party, a Receiving Party may disclose information or items designated "CONFIDENTIAL" only to:

(a) the Receiving Party's Outside Counsel, as well as employees of said Outside Counsel to whom it is reasonably necessary to disclose the information for this Action;

(b) In-house Counsel of the Receiving Party to whom disclosure is reasonably necessary for this Action, who have signed the "Agreement To Be Bound By Protective Order" (Exhibit A);

(c) Outside Consultants (as defined in this Order) (1) to whom disclosure is reasonably necessary for this Action, (2) who have signed the “Agreement to Be Bound by Protective Order” (Exhibit A), and (3) as to whom the procedures set forth in Section 7.6 below, have been followed;

(d) the Court and its personnel;

(e) court reporters, their staffs, and Professional Vendors to whom disclosure is reasonably necessary for this Action;

(f) any designated mediator who is assigned to hear this matter, or who has been selected by the Parties, and his or her staff, who have signed the “Agreement To Be Bound by Protective Order” (Exhibit A);

(g) during their depositions, witnesses in the Action who are current officers or employees of the Producing Party and to whom disclosure is reasonably necessary for this Action;

(h) each person the document or information identifies as an author, source or recipient of such document or information; and

(i) any person that evidence demonstrates to have already viewed the information or document or been told of its content, provided that the party desiring such disclosure first provides five (5) calendar days advanced written notice to the Designating Party of the planned disclosure describing precisely what is to be disclosed, to whom it will be disclosed, and the evidentiary basis for believing the document or information has already been disclosed to such person. Should the Designating Party object to such disclosure within the five (5) calendar days, disclosure shall not be made under this provision.

7.3 Disclosure of “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES

ONLY” Information or Items. Unless otherwise ordered by the Court or permitted in writing by the Designating Party, a Receiving Party may disclose information or items designated “HIGHLY CONFIDENTIAL — ATTORNEYS’ EYES ONLY” only to:

(a) The Receiving Party’s Outside Counsel, as well as employees of said Outside Counsel to whom it is reasonably necessary to disclose the information for this Action;

(b) Outside Consultants (as defined in this Order) (1) to whom disclosure is reasonably necessary for this Action, (2) who have signed the “Agreement to Be Bound by Protective Order” (Exhibit A), and (3) as to whom the procedures set forth in Section 7.6 below, have been followed;

(c) the Court and its personnel;

(d) court reporters, their staffs, and Professional Vendors to whom disclosure is reasonably necessary for this Action;

(e) any designated mediator who is assigned to hear this matter, or who has been selected by the Parties, and his or her staff, who have signed the “Agreement To Be Bound by Protective Order” (Exhibit A);

(f) each person the document or information identifies as an author, source or recipient of such document or information; and

(g) any person that evidence demonstrates to have already viewed the information or document or been told of its content, provided that the party desiring such disclosure first provides five (5) calendar days advanced written notice to the Designating Party of the planned disclosure describing precisely what is to be disclosed, to whom it will be

disclosed, and the evidentiary basis for believing the document or information has already been disclosed to such person. Should the Designating Party object to such disclosure within the five (5) calendar days, disclosure shall not be made under this provision.

7.4 Disclosure of “HIGHLY CONFIDENTIAL – SOURCE CODE”

Information and Items. Unless otherwise ordered by the Court or permitted in writing by the Designating Party, a Receiving Party may disclose, subject to the provisions of Paragraph 7.5 and 8, information or items designated “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY” only to:

(a) Outside Counsel for the Receiving Party, as well as employees of said Outside Counsel to whom it is reasonably necessary to disclose the information for this Action, except that, unless otherwise agreed, no outside counsel who is involved in competitive decision-making, as defined by *U.S. Steel v. United States*, 730 F.2d 1465, 1468 n.3 (Fed. Cir. 1984), shall have access to “HIGHLY CONFIDENTIAL – SOURCE CODE” Information or Items;

(b) Outside Consultants (as defined in this Order) retained by the Receiving Party for purposes of this Action who (a) have signed the “Agreement to Be Bound by Protective Order” (Exhibit A), and (b) as to whom the procedures set forth in Section 7.6 below, have been followed, provided that disclosure is only to the extent necessary to perform that consultant’s work in this Action and such expert or consultant is not involved in competitive decision-making, as defined by *U.S. Steel v. United States*, 730 F.2d 1465, 1468 n.3 (Fed. Cir. 1984), on behalf of a party or a competitor of a party in the technical subject matter of the “HIGHLY CONFIDENTIAL – SOURCE CODE” Information or Items;

(c) the Court and its personnel;

(d) court reporters, stenographers, and videographers retained to record testimony taken in this Action;

(e) any persons who are witnesses during a deposition, court hearing, or trial where specific documentary or testimonial evidence establishes that the “HIGHLY CONFIDENTIAL – SOURCE CODE” Information or Items or portion of the “HIGHLY CONFIDENTIAL – SOURCE CODE” Information or Items was authored or received by the witness;

(f) any mediator who is assigned to hear this matter, and his or her staff, subject to their agreement to maintain confidentiality to the same degree as required by this Order;

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

7.5 Limits on Disclosure of “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY” and “HIGHLY CONFIDENTIAL – SOURCE CODE” Material, Information or Items.

(a) For avoidance of doubt, Receiving Parties shall not disclose “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY” or “HIGHLY CONFIDENTIAL – SOURCE CODE” Material, Information or Items to any of its In-house attorneys or employees. Outside Counsel for the Receiving Party may give advice and opinions to his or her client regarding this litigation based on his or her evaluation of designated “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY” or “HIGHLY CONFIDENTIAL – SOURCE CODE” Material, Information or Items – provided that such rendering of advice and opinions

shall not reveal the content of such Protected Material or any information contained therein except by prior written agreement with Outside Counsel for the Producing Party.

(b) Each person to whom Protected Material may be disclosed, and who is required to sign the “Agreement To Be Bound By Protective Order” attached hereto as Exhibit A, shall do so prior to the time such Protected Material is disclosed to him or her.

Outside Counsel for a Party who makes any disclosure of Protected Material shall retain each original executed agreement and, upon written request, shall provide copies to counsel to all other Parties at the termination of this action.

(c) At the request of the Designating Party, persons not permitted access to Protected Material under the terms of this Protective Order shall not be present at depositions while the Designating Party’s Protected Material is discussed or otherwise disclosed. Pre-trial and trial proceedings shall be conducted in a manner, subject to the supervision of the Court, to protect Protected Material from disclosure to persons not authorized to have access to such Material. Any Party intending to disclose or discuss Protected Material at pretrial or trial proceedings must give advance notice to assure the implementation of the terms of this Protective Order.

(d) Any consultant or expert retained on behalf of a Receiving Party who is to be given access to a Producing Party’s “HIGHLY CONFIDENTIAL – SOURCE CODE” Material, Information or Items — whether in electronic form or otherwise — must agree in writing not to use the accessed code to write source code directly intended for commercial purposes relating to wireless communications and user interface technology for a period of six (6) months after the issuance of a final, non-appealable decision resolving all issues in this Action. This shall not preclude such consultants and experts from any academic work or

consulting in future litigation, so long as such consulting does not involve writing source code directly intended for commercial purposes relating to the technology at issue in this Action.

(e) Absent the written consent of the Disclosing Party, any person who receives access to Protected Material shall not be involved in the prosecution of patents or patent applications relating to the subject matter of the patents-in-suit, before any foreign or domestic agency, including the United States Patent and Trademark Office. For purposes of this paragraph, “prosecution” includes, without limitation: (i) the drafting or amending of patent claims, or the supervising of the drafting or amending of patent claims; (ii) participating in or advising on any reexamination or reissue proceeding; and (iii) advising any client concerning strategies for obtaining or preserving patent rights in the above-listed field before the United States Patent and Trademark Office or other similar foreign government or agency.

Notwithstanding the preceding, for purposes of this paragraph, “prosecution” does not include (i) any acts taken to discharge the duty of candor and good faith in any proceeding related to the asserted patents or the technical subject matter of the asserted patents; (ii) participating in or advising on any reexamination or reissue proceeding by Nokia’s lawyers with respect to any patents in which Apple has any interest, or participating in or advising on any reexamination or reissue proceeding (except for participating in or advising on, directly or indirectly, claim drafting or amending claims) by Apple’s lawyers with respect to any patents in which Apple has any interest; (iii) participating in or advising on any reexamination or reissue proceeding by Apple’s lawyers with respect to any patents in which Nokia has any interest, or participating in or advising on any reexamination or reissue proceeding (except for participating in or advising on, directly or indirectly, claim drafting or amending claims) by Nokia’s lawyers with respect to any patents in which Nokia has any interest. This prohibition on patent prosecution shall begin

when an individual obtains access to the Protective Material and shall end two (2) years after the final resolution of this Action, including all appeals. This prosecution bar is personal to the person receiving Protected Material in this Action and shall not be imputed to any other person or entity.

7.6 Procedures for Approving Disclosure of “CONFIDENTIAL,” “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY,” and “HIGHLY CONFIDENTIAL – SOURCE CODE” Information or Items to “Outside Consultants”

(a) Unless otherwise ordered by the Court or agreed in writing by the Designating Party, a Receiving Party that seeks to disclose to an Outside Consultant (as defined in this Order) any Protected Material first must notify the Designating Party at least ten (10) business days before the first of such disclosure. The notification must include: (i) the name of the Outside Consultant, (ii) and the name of his or her employer(s) during the last five (5) years, (iii) a current copy of the Outside Consultant’s resume or CV, (iv) if an Outside Consultant for Nokia, whether he or she has done any work for, or been adverse to, Apple, Inc. in the last five (5) years, and if an Outside Consultant for Apple, whether he or she has done any work for, or been adverse to, Nokia, Inc., Nokia, Corp. or Nokia Seimens Network in the last five (5) years, and (v) a list of any clients for whom the Outside Consultant has done any consulting in the area of wireless telecommunications during the last five (5) years. If any Outside Consultant is unable to comply fully with the requirements of this paragraph due to confidentiality restrictions, the Receiving Party must so state in the notification, and the parties must confer in good faith to address any reasonable concerns of the Designating Party.

(b) A Receiving Party that makes a request and provides to the Designating Party the information specified in Section 7.4 (a) above may disclose Protected

Material to the identified Outside Consultant unless, within ten (10) business days of making the notification, the Receiving Party receives a written objection from the Designating Party. Any such objection must be made for good cause and set forth in detail the grounds on which it is based.

(c) A Receiving Party that receives a timely written objection must meet and confer with the Designating Party to try to resolve the matter by agreement. If no agreement is reached within five (5) business days, the Party challenging the disclosure to the Outside Consultant may file a motion in compliance with Local Rule 5.1.3, if applicable, seeking a Protective Order from the Court to prohibit the disclosure to the Outside Consultant. Any such notice must describe the circumstances with specificity, set forth in detail the reasons for the challenge, assess the risk of harm from the use of the Designating Party's Protected Material for purposes other than this Action, and may suggest any additional means that might be used to reduce that risk. In addition, any such motion must be accompanied by a competent declaration in which the movant describes the Parties' efforts to resolve the matter by agreement. The Designating Party shall have the burden of proof by a preponderance of the evidence on the issue of the sufficiency of the objection(s). If the Party challenging the disclosure files a timely motion for Protective Order, Protected Material shall not be disclosed to the challenged individual until and unless a final ruling allowing such disclosure is made by this Court, or by the consent of the Producing Party, whichever occurs first. If the Party challenging the disclosure fails to file a proper motion within five (5) business days of having met and conferred, the Receiving Party may disclose the Protected Material to the Outside Consultant. Disagreement by the Designating Party that the Outside Consultant is competent to render an admissible opinion in this Action is not a valid basis for refusing disclosure. Likewise, the disclosure of designated

material to an Outside Consultant under the terms of this Order may not be used as evidence that the Producing Party acquiesced to the expertise or qualifications of the Outside Consultant.

8. PRODUCTION OF HIGHLY CONFIDENTIAL – SOURCE CODE MATERIALS.

8.1 To the extent that a party wishes to obtain access to HIGHLY CONFIDENTIAL – SOURCE CODE, the following procedures may apply at the option of the Producing Party. Nothing in this Order shall be construed as a representation or admission by a party that HIGHLY CONFIDENTIAL – SOURCE CODE is properly discoverable in this Action, or to obligate any party to produce HIGHLY CONFIDENTIAL – SOURCE CODE.

8.2 The following provisions apply to the production of HIGHLY CONFIDENTIAL – SOURCE CODE unless otherwise agreed by the Producing Party:

(a) All HIGHLY CONFIDENTIAL – SOURCE CODE shall be made available by the Producing Party to the Receiving Party in a secure room, the domestic location and facility of which the Producing Party shall select, on at least two secured, stand-alone computers (running a reasonably current version of the Microsoft Windows operating system) per software platform produced (in the case of Nokia HIGHLY CONFIDENTIAL – SOURCE CODE, for example, produced software platforms may include S60, S40, Qt, and Maemo), without Internet access or network access to other computers, as necessary and appropriate to prevent and protect against any unauthorized copying, transmission, removal, or other transfer of any HIGHLY CONFIDENTIAL – SOURCE CODE outside or away from the computer on which the HIGHLY CONFIDENTIAL – SOURCE CODE is provided for inspection (hereinafter “HIGHLY CONFIDENTIAL – SOURCE CODE Computer”). If it should be necessary, the HIGHLY CONFIDENTIAL – SOURCE CODE Computer may be configured by the Producing

Party to run other mutually agreed upon operating systems. No more than a total of 25 individuals identified by the receiving party shall have access to the secure room in which the Producing Party produces its HIGHLY CONFIDENTIAL – SOURCE CODE.

(b) The Producing shall install tools that are sufficient for viewing and searching the code produced, on the platform produced, if such tools exist and are presently used in the ordinary course of the Producing Party's business. The Receiving Party's Outside Counsel and/or Outside Consultants may request that commercially available software tools for viewing and searching HIGHLY CONFIDENTIAL – SOURCE CODE be installed on the secured computer, provided, however, that such other software tools are reasonably necessary for the Receiving Party to perform its review of the HIGHLY CONFIDENTIAL – SOURCE CODE consistent with all of the protections herein. Specific tools may include — but are not limited to: Visual Slick Edit, Source-Navigator, PowerGrep, and ExamDiff Pro, or other similar programs. The Receiving Party must provide the Producing Party with the CD or DVD containing such licensed software tool(s) at least five (5) days in advance of the date upon which the receiving party wishes to have the additional software tools available for use on the HIGHLY CONFIDENTIAL – SOURCE CODE Computer. The Receiving Party shall not at any time use any compilers, interpreters or simulators in connection with the Producing Party's HIGHLY CONFIDENTIAL – SOURCE CODE.

(c) The Producing Party shall make the HIGHLY CONFIDENTIAL – SOURCE CODE available electronically and in text searchable form in a secure room at the offices of the Producing Party's Outside Counsel or any other location mutually agreed by the parties.

(d) In order to verify that its HIGHLY CONFIDENTIAL – SOURCE CODE has not later been altered, the Producing Party may benchmark the materials before and after they are provided but shall not install any keystroke or other monitoring software on the HIGHLY CONFIDENTIAL – SOURCE CODE Computer.

(e) The HIGHLY CONFIDENTIAL – SOURCE CODE Computer shall be made available from 9 am to 7 pm local time, Monday through Friday (excluding holidays), and other days and/or times, including weekends, upon reasonable request until the close of discovery in this Action. Access on weekends or after hours shall be permitted only on three days advanced written notice.

(f) Prior to the first inspection of any requested piece of HIGHLY CONFIDENTIAL – SOURCE CODE, the Requesting Party shall provide fourteen (14) days notice of the HIGHLY CONFIDENTIAL – SOURCE CODE that it wishes to inspect. The requesting party shall provide two (2) days notice prior to any additional inspections of the same HIGHLY CONFIDENTIAL – SOURCE CODE, although the parties will be reasonable in accommodating requests of less than two (2) days. The Receiving Party shall identify any individual who will be given access to the HIGHLY CONFIDENTIAL – SOURCE CODE at least ten (10) days prior to the first time any such individual is given access to the HIGHLY CONFIDENTIAL – SOURCE CODE, after which time the Producing Party may object to providing access to any persons so identified. The Receiving Party shall provide two (2) days notice any time each such individual is given access to the HIGHLY CONFIDENTIAL – SOURCE CODE after the first time, although the parties will be reasonable in accommodating notice of less than two (2) days. If an objection to an individual is made by the Producing Party,

it will be the burden of the Producing Party to prove that the individual should not be authorized to inspect the Producing Party's HIGHLY CONFIDENTIAL – SOURCE CODE.

(g) Proper identification of all authorized persons shall be provided prior to any access to the secure room or the HIGHLY CONFIDENTIAL – SOURCE CODE Computer. Proper identification requires showing, at a minimum, a photo identification card sanctioned by the government of any State of the United States, by the government of the United States, or by the nation state of the authorized person's current citizenship. Access to the secure room or the HIGHLY CONFIDENTIAL – SOURCE CODE Computer may be denied, at the discretion of the Producing Party, to any individual who fails to provide proper identification.

(h) The HIGHLY CONFIDENTIAL – SOURCE CODE Computer shall be equipped with a printer (with commercially reasonable printing speeds) to print copies of the HIGHLY CONFIDENTIAL – SOURCE CODE on watermarked pre-Bates numbered paper, which shall be provided by the Producing Party. The Receiving Party may print limited portions of the HIGHLY CONFIDENTIAL – SOURCE CODE only when reasonably necessary to facilitate the Receiving Party's preparation of court filings, expert reports, and trial exhibits, and shall print only such portions as are relevant to the claims and defenses in the case and are reasonably necessary for such purpose. The Receiving Party shall not print HIGHLY CONFIDENTIAL – SOURCE CODE in order to review blocks of HIGHLY CONFIDENTIAL – SOURCE CODE elsewhere in the first instance, i.e., as an alternative to reviewing that HIGHLY CONFIDENTIAL – SOURCE CODE electronically on the HIGHLY CONFIDENTIAL – SOURCE CODE Computer, as the parties acknowledge and agree that the purpose of the protections herein would be frustrated by printing portions of code for review and analysis elsewhere. If the Producing Party objects that the printed portions are excessive and/or not done

for a permitted purpose, the Producing Party shall make such objection known to the receiving party within five (5) days. Printed portions which exceed 50 continuous pages or 10% or more of a specific software release shall be presumed excessive and not done for a permitted purpose. If, after meeting and conferring, the Producing Party and the Receiving Party cannot resolve the objection, the Producing Party shall be entitled to seek the Court's resolution of whether the printed HIGHLY CONFIDENTIAL – SOURCE CODE in question is narrowly tailored and was printed for a permitted purpose. The burden shall be on the Receiving Party to demonstrate that such printed portions are no more than is reasonably necessary for a permitted purpose and not merely printed for the purposes of review and analysis elsewhere. No more than a total of 30 individuals identified by the receiving party shall have access to the printed portions of HIGHLY CONFIDENTIAL – SOURCE CODE (except insofar as such code appears in any filing with the Court or expert report in this Action).

(i) The printed HIGHLY CONFIDENTIAL – SOURCE CODE shall be labeled with “[PRODUCING PARTY’S NAME] HIGHLY CONFIDENTIAL – SOURCE CODE – SUBJECT TO PROTECTIVE ORDER.” Outside Counsel for the Producing Party will keep the originals of these printed documents, and copies shall be made for Outside Counsel for the Receiving Party on watermarked paper within 48 hours. The Receiving Party’s Outside Counsel may make no more than ten (10) additional paper copies of any portions of the HIGHLY CONFIDENTIAL – SOURCE CODE received from a Producing Party, not including copies attached to court filings or used at depositions.

(j) In addition to other reasonable steps to maintain the security and confidentiality of the Producing Party’s HIGHLY CONFIDENTIAL – SOURCE CODE, printed copies of the HIGHLY CONFIDENTIAL – SOURCE CODE maintained by the Receiving Party

must be kept in a locked storage container when not in use. No electronic copies of the HIGHLY CONFIDENTIAL – SOURCE CODE shall be provided by the Producing Party beyond the HIGHLY CONFIDENTIAL – SOURCE CODE Computer.

(k) Except as provided herein, absent express written permission from the Producing Party, the Receiving Party may not create electronic images, or any other images, or make electronic copies, of the HIGHLY CONFIDENTIAL – SOURCE CODE from any paper copy of HIGHLY CONFIDENTIAL – SOURCE CODE for use in any manner (including, by way of example only, the Receiving Party may not scan the HIGHLY CONFIDENTIAL – SOURCE CODE to a PDF or photograph the code). Images or copies of HIGHLY CONFIDENTIAL – SOURCE CODE shall not be included in correspondence between the parties (references to production numbers shall be used instead), and shall be omitted from pleadings and other papers whenever possible. If a party reasonably believes that it needs to submit a portion of HIGHLY CONFIDENTIAL – SOURCE CODE as part of a filing with the Court, the Parties shall meet and confer as to how to make such a filing while protecting the confidentiality of the HIGHLY CONFIDENTIAL – SOURCE CODE and such filing will not be made absent agreement from the Producing Party that the confidentiality protections will be adequate. If a Producing Party agrees to produce an electronic copy of all or any portion of its HIGHLY CONFIDENTIAL – SOURCE CODE or provide written permission to the receiving party that an electronic or any other copy needs to be made for a Court filing, the Receiving Party's communication and/or disclosure of electronic files or other materials containing any portion of HIGHLY CONFIDENTIAL – SOURCE CODE (paper or electronic) shall at all times be limited to solely individuals who are expressly authorized to view HIGHLY CONFIDENTIAL – SOURCE CODE under the provisions of this Order, and all such individuals

must be identified on the log as reviewers and/or recipients of paper copies in accordance with paragraph 8.2(p). In the case where the Producing Party has provided the express written permission required under this provision for a receiving party to create electronic copies of HIGHLY CONFIDENTIAL – SOURCE CODE, the electronic copies shall be included on the log required by paragraph 8.2(p) and any other information required by paragraph 8.2(p) shall be included on the log. Additionally, any such electronic copies must be labeled “[PRODUCING PARTY’S NAME] HIGHLY CONFIDENTIAL – SOURCE CODE – SUBJECT TO PROTECTIVE ORDER” as provided for in this Order.

(l) For depositions, the Receiving Party shall not bring copies of any printed HIGHLY CONFIDENTIAL – SOURCE CODE. Rather, at least five (5) days before the date of the deposition, the Receiving Party shall notify the Producing Party about the specific portions of HIGHLY CONFIDENTIAL – SOURCE CODE it wishes to use at the deposition, and the Producing Party shall bring printed copies of those portions to the deposition for use by the receiving party. Copies of HIGHLY CONFIDENTIAL – SOURCE CODE that are marked as deposition exhibits shall not be provided to the court reporter or attached to deposition transcripts; rather, the deposition record will identify the exhibit by its production numbers. All paper copies of HIGHLY CONFIDENTIAL – SOURCE CODE brought to the deposition shall be securely destroyed in a timely manner following the deposition.

(m) Other than the HIGHLY CONFIDENTIAL – SOURCE CODE Computer and printer provided by the Producing Party, no electronic devices, including but not limited to laptops, floppy drives, zip drives, or other hardware shall be permitted in the secure room. Nor shall any cellular telephones, personal digital assistants, Blackberries, cameras, voice recorders, Dictaphones, telephone jacks, or other devices be permitted inside the secure room. No non-

electronic devices capable of similar functionality shall be permitted in the secure room. The Receiving Party shall be entitled to take notes relating to the HIGHLY CONFIDENTIAL – SOURCE CODE but may not copy the HIGHLY CONFIDENTIAL – SOURCE CODE into the notes and may not take such notes electronically on the HIGHLY CONFIDENTIAL – SOURCE CODE Computer itself or any other computer. No copies of all or any portion of the HIGHLY CONFIDENTIAL – SOURCE CODE may leave the room in which the HIGHLY CONFIDENTIAL – SOURCE CODE is inspected except as otherwise provided herein. Further, no other written or electronic record of the HIGHLY CONFIDENTIAL – SOURCE CODE is permitted except as otherwise provided herein. The Producing Party may visually monitor the activities of the Receiving Party’s representatives during any HIGHLY CONFIDENTIAL – SOURCE CODE review, but only to ensure that no unauthorized electronic records of the HIGHLY CONFIDENTIAL – SOURCE CODE and that no information concerning the HIGHLY CONFIDENTIAL – SOURCE CODE are being created or transmitted in any way.

(n) Other than as provided 8.1(i), the Receiving Party will not copy, remove, or otherwise transfer any HIGHLY CONFIDENTIAL – SOURCE CODE from the HIGHLY CONFIDENTIAL – SOURCE CODE Computer including, without limitation, copying, removing, or transferring the HIGHLY CONFIDENTIAL – SOURCE CODE onto any recordable media or recordable device, including without limitation sound recorders, computers, cellular telephones, peripheral equipment, cameras, CDs, DVDs, or drives of any kind. The Receiving Party will not transmit any HIGHLY CONFIDENTIAL – SOURCE CODE in any way from the Producing Party’s facilities or the offices of its outside counsel.

(o) Unless otherwise agreed in advance by the parties in writing, following each day on which inspection is done under this Order, the Receiving Party’s Outside Counsel

and/or Outside Consultants shall remove all notes, documents, and all other materials from the secure room. The Producing Party shall not be responsible for any items left in the room following each inspection session, and the receiving party shall have no expectation of confidentiality for any items left in the room following each inspection session without a prior agreement to that effect.

(p) The Receiving Party shall maintain a HIGHLY CONFIDENTIAL – SOURCE CODE Access Log identifying each hard copy (or electronic copy as permitted by paragraph 8.2(k)) of HIGHLY CONFIDENTIAL – SOURCE CODE that it has in its possession and, for each and every time the hard copy (or electronic copy as permitted by paragraph 8.2(k)) of the HIGHLY CONFIDENTIAL – SOURCE CODE is viewed: (i) the name of each person who viewed the HIGHLY CONFIDENTIAL – SOURCE CODE; (ii) the date and time of access; (iii) the length of time of access; and (iv) whether any, and if so what, portion of the HIGHLY CONFIDENTIAL – SOURCE CODE was copied. The Producing Party shall be entitled to a copy of the log upon one (1) day’s advance notice to the receiving party. Within thirty (30) days after the issuance of a final, non-appealable decision resolving all issues in the Action, the Receiving Party must serve upon the Producing Party the HIGHLY CONFIDENTIAL – SOURCE CODE Access Log. All persons to whom the paper copies of the HIGHLY CONFIDENTIAL – SOURCE CODE were provided must certify in writing that all copies of the HIGHLY CONFIDENTIAL – SOURCE CODE were returned to Outside Counsel for the Producing Party and that they will make no use of the HIGHLY CONFIDENTIAL – SOURCE CODE or of any knowledge gained from the HIGHLY CONFIDENTIAL – SOURCE CODE in any future endeavor.

8.3. Access to and review of the HIGHLY CONFIDENTIAL – SOURCE CODE shall be strictly for the purpose of investigating the claims and defenses at issue in this Action. No person shall review or analyze any HIGHLY CONFIDENTIAL – SOURCE CODE for purposes unrelated to this Action, nor may any person use any knowledge gained as a result of reviewing HIGHLY CONFIDENTIAL – SOURCE CODE in this Action in any other pending or future dispute, proceeding, patent prosecution, or litigation.

8.4. Nothing herein shall be deemed a waiver of a party’s right to object to the production of HIGHLY CONFIDENTIAL – SOURCE CODE. Absent a subsequent and specific court or agency order, nothing herein shall obligate a party to breach any non-party license agreement relating to such HIGHLY CONFIDENTIAL – SOURCE CODE.

8.5. The parties further acknowledge that some or all of the HIGHLY CONFIDENTIAL – SOURCE CODE may be owned by non-parties and outside a party’s possession, custody or control. Nothing herein shall be deemed a waiver of any non-party’s right to object to the production of HIGHLY CONFIDENTIAL – SOURCE CODE or object to the manner of any such production.

9. PROTECTED MATERIAL SUBPOENAED OR ORDERED PRODUCED IN OTHER LITIGATION

9.1 If a Receiving Party is served with a subpoena or an order issued in other litigation that would compel disclosure of any information or items designated in this action as “CONFIDENTIAL,” “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY,” or “HIGHLY CONFIDENTIAL – SOURCE CODE,” the Receiving Party must so notify the Designating Party, in writing, promptly and in no event more than ten (10) business days after

receiving the subpoena or order. Such notification must include a copy of the subpoena or court order.

9.2 The Receiving Party also must immediately inform in writing the party who caused the subpoena or order to issue in the other litigation that some or all the material covered by the subpoena or order is the subject of this Order. In addition, the Receiving Party must deliver a copy of this Order promptly to the party in the other action that caused the subpoena or order to issue.

9.3 The purpose of imposing these duties is to alert the interested parties to the existence of this Order and to afford the Designating Party in this case an opportunity to try to protect its confidentiality interests in the court from which the subpoena or order issued. The Designating Party shall bear the burdens and the expenses of seeking protection in that court of its confidential material, and nothing in these provisions should be construed as authorizing or encouraging a Receiving Party in this action to disobey a lawful directive from another court.

10. UNAUTHORIZED DISCLOSURE OF PROTECTED MATERIAL

If a Receiving Party learns that, by inadvertence or otherwise, it has disclosed Protected Material to any person or in any circumstance not authorized under this Order, the Receiving Party must immediately (a) notify in writing the Designating Party of the unauthorized disclosures, (b) use its best efforts to retrieve all copies of the Protected Material, (c) inform the person or persons to whom unauthorized disclosures were made of all the terms of this Order, and (d) request that such person or persons execute the “Acknowledgment and Agreement to Be Bound By Protective Order” that is attached hereto as Exhibit A.

11. FILING PROTECTED MATERIAL

Without written permission from the Designating Party or a court order secured after appropriate notice to all interested persons, a Party may not publicly file in this Action any Protected Material. With regard to filing Protected Material under seal in accordance with Local Rule 5.1.3, the parties submit and the Court finds that there will be documents filed in this case that include confidential, proprietary and commercially sensitive information that can only be protected by sealing the documents and those portions of the memoranda that discuss the documents. The Court finds that this information is of a private business nature and is not of great public interest.

In the event that any “CONFIDENTIAL,” “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY,” or “HIGHLY CONFIDENTIAL – SOURCE CODE” information is included with, or the contents thereof are in any way disclosed in any pleading, motion, deposition, transcript or other paper filed with the Clerk of this Court, such information shall be filed with the Clerk of the Court, without need of a motion, in sealed envelopes or containers marked with the caption of the case, a general description of the contents of the envelope or container and a legend substantially in the following form:

“UNDER SEAL – SUBJECT TO PROTECTIVE ORDER –
CONTAINS CONFIDENTIAL OR HIGHLY CONFIDENTIAL
MATERIAL – TO BE OPENED ONLY BY OR AS DIRECTED
BY THE COURT.”

Notwithstanding the foregoing, however, “CONFIDENTIAL,” “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY,” or “HIGHLY CONFIDENTIAL – SOURCE CODE” documents or testimony introduced into evidence at trial shall not be sealed or otherwise treated as confidential by the Court except pursuant to a further order of the Court at the request of either party during pretrial proceedings or at trial.

12. DISCOVERY FROM OUTSIDE CONSULTANTS

(a). The Parties agree that they will not seek drafts of expert reports, declarations, affidavits, or notes taken by experts retained to testify in this Investigation, whether those reports, declarations, affidavits, or notes relate to this Action, to any prior investigation, litigation or proceeding which was disclosed to the parties under paragraph 7.6 of the Protective Order, or to any currently pending investigation, litigation or proceeding involving any of the Parties to this Action.¹ The Parties further agree that they will not seek documents relating to communications between such experts and counsel, including e-mail communications, whether generated in connection with this Action, a prior litigation, or any currently pending investigation, litigation or proceeding involving any of the Parties to this Action, except for documents, information and things included in or attached to such communications that are directly relied upon by the expert in his or her expert report, declaration, affidavit, or testimony.

(b). The Parties agree not to inquire at deposition or trial as to the contents of drafts of expert reports, declarations or affidavits, nor notes pertaining thereto, whether drafted in connection with this Action, a prior litigation, or any currently pending investigation, litigation or proceeding involving two or more of the Parties to this Action, and that the Parties will not inquire at deposition or at trial as to the expert's communications, written or oral, with counsel, whether generated in connection with this Action, a prior litigation, or any currently pending investigation, litigation or proceeding involving two or more of the Parties to this Action, except

¹ For purposes of this Paragraph, "any currently pending investigation, litigation or proceeding involving two or more of the Parties in this Action" includes: *In the Matter of Certain Electronic Devices, Including Mobile Phones, Portable Music Players, and Computers*, 337-TA-701; *In the Matter of Certain Mobile Communications and Computer Devices and Components Thereof*, 337-TA-704; *Nokia v. Apple*, Case No. 10-cv-00249 (W.D. Wis.) *Nokia v. Apple*, Case No. 09-cv-791 (D. Del.); and *Nokia v. Apple*, Case No. 09-cv-1002 (D. Del.).

to the extent that the expert explicitly references or cites information from counsel in his or her expert report, declaration, affidavit, or testimony.

(c). The Parties will, however, identify and produce copies of any documents referenced or cited by the expert in his or her expert report. Furthermore, nothing in this Paragraph is intended to restrict the Parties' ability to (i) inquire into the basis of any of the opinions expressed by any experts in his or her report, declaration, or affidavit, including the manner by which such opinions were reached, and information considered in reaching such opinions; (ii) otherwise inquire into the process by which an expert report, affidavit or declaration was drafted, provided that, in so doing, the Parties may not discover the contents of any such drafts of expert reports, declarations or affidavits, nor notes pertaining thereto; or (iii) obtain reports, testimony, or other discovery or evidence produced in any prior litigation or any currently pending investigation, litigation or proceeding involving two or more of the Parties to this Investigation.

13. COMMUNICATIONS BETWEEN PARTY AND COUNSEL

The parties agree that privileged or protected communications occurring on or after October 22, 2009 need not be recorded on the Party's privilege log in this case.

14. FINAL DISPOSITION

Unless otherwise ordered or agreed in writing by the Producing Party, within 90 calendar days after the final termination of this Action, each Receiving Party must return all Protected Material to the Producing Party. As used in this subdivision, "all Protected Material" includes all copies, abstracts, compilations, summaries or any other form of reproducing or capturing any of the Protected Material. In lieu of returning to the Producing Party, counsel for a Receiving Party may destroy any Protected Material that is intertwined with attorney work product or

privileged communications. With permission in writing from the Designating Party, the Receiving Party may destroy some or all of the remaining Protected Material instead of returning it. Whether the Protected Material is returned or destroyed, the Receiving Party must submit a written certification to the Producing Party (and, if not the same person or entity, to the Designating Party) by the 90 calendar day deadline that verifies all the Protected Material was returned or destroyed and that affirms that the Receiving Party has not retained any copies, abstracts, compilations, summaries or other forms of reproducing or capturing any of the Protected Material. Notwithstanding this provision, Counsel are entitled to retain an archival copy of all pleadings, expert reports, motion papers, deposition and hearing transcripts, legal memoranda, correspondence and attorney work product, even if such materials contain Protected Material. Any such archival copies that contain or constitute Protected Material remain subject to this Order as set forth in Section 4 (DURATION) above.

15. MISCELLANEOUS

15.1 Right to Further Relief. Nothing in this Order abridges the right of any person to seek its modification by the Court in the future. The Parties may by stipulation provide for exceptions to this Order, provided that such stipulation is presented to the Court as a Consent Order, and any Party may seek an order of this Court modifying or interpreting this Order.

15.2 Right to Assert Other Objections. By stipulating to the entry of this Order, no Party waives any right it otherwise would have to object to disclosing or producing any information or item on any ground not addressed in this Order or from asserting that certain discovery materials should receive greater confidentiality protection than that provided herein, in accordance with Rule 26(c) of the Federal Rules of Civil Procedure. Similarly, no Party waives any right to object on any ground to use in evidence of any of the material covered by this Order.

15.3 Waiver of Notice. Any of the notice requirements herein may be waived, in whole or in part, but only by a writing signed by Counsel for the Party against whom such waiver will be effective.

15.4 Enforcement. The United States District Court for the District of Delaware is responsible for the interpretation and enforcement of this Order. All disputes concerning Protected Material produced under the protection of this Order shall be resolved by this Court. In the event anyone shall violate or threaten to violate the terms of this Order, subject to meet and confer obligations in the Court's Local Rules, the aggrieved party may apply to obtain injunctive relief against any such person, and in such event, the respondent, subject to the terms of this Order, shall not employ as a defense thereto the claim that the aggrieved party possesses an adequate remedy at law. The parties and any other person subject to the terms of this Order agree that they will subject themselves to the jurisdiction of this Court for the purpose of any proceedings related to performance under, compliance with, or violation of this Order.

15.5 No Waiver. Nothing in this Order, or the taking of any action in accordance with the provisions of this Order, or the failure to object thereto, shall be construed as a waiver or admission of any claim or defense in the Action. The failure to object to a designation shall not constitute an admission by the Receiving Party that the designated information is in fact trade secret or proprietary information. This Order shall not in any way limit what a party may do or disclose with its own documents or information. Nothing in this Order shall be deemed to preclude a party from seeking and obtaining, on an appropriate showing, different or additional protections or relief regarding matter designated as containing "CONFIDENTIAL," "HIGHLY CONFIDENTIAL – ATTORNEYS' EYES ONLY," or "HIGHLY CONFIDENTIAL – SOURCE CODE" information.

MORRIS, NICHOLS, ARSHT & TUNNELL LLP

POTTER, ANDERSON & CORROON LLP

/s/ Jack B. Blumenfeld

/s/ David E. Moore

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Dated: June 1, 2010

SO ORDERED this ____ day of _____ 2010.

United States District Court Judge