

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF FLORIDA**

CASE NO.: 1:10-CV-23580-RNS

_____)
MOTOROLA MOBILITY, INC.,)
)
Plaintiff,)
)
v.)
)
APPLE INC.,)
)
Defendant.)
_____)
APPLE INC.,)
)
Counterclaim-Plaintiff,)
)
v.)
)
MOTOROLA, INC. and)
MOTOROLA MOBILITY, INC.,)
)
Counterclaim-Defendants.)
_____)

JOINT [PROPOSED] ADDENDUM TO THE PROTECTIVE ORDER

Pursuant to Federal Rules of Civil Procedure 26(c) and in order to facilitate production and receipt of information from non-party Google Inc. (“Google”) during discovery in the above-referenced action, Defendant and Counterclaim-Plaintiff Apple Inc. (“Apple”) and Google hereby respectfully move for entry of the following addendum to the Joint Protective Order, entered by the Court on March 23, 2011 (collectively referred to herein as the “Protective Order”). Plaintiffs and Counterclaim-Defendants Motorola Solutions, Inc. (f/k/a Motorola, Inc.) and Motorola Mobility, Inc. do not oppose this addendum.

NON-PARTY GOOGLE INC.

29. The following additional protections shall apply to confidential source code produced by non-party Google Inc.:

a. The following provisions shall apply to individuals with access to the confidential source code produced by non-party Google Inc.

i. No more than a total of 20 individuals identified by the receiving party shall have access to the secure room in which Google Inc. produces material designated with the label “CONTAINS CONFIDENTIAL BUSINESS INFORMATION INCLUDING HIGHLY CONFIDENTIAL SOURCE CODE”

ii. No more than a total of 30 individuals identified by the receiving party shall have access to the printed portions of material produced by Google Inc. designated with the label “CONTAINS CONFIDENTIAL BUSINESS INFORMATION INCLUDING HIGHLY CONFIDENTIAL SOURCE CODE” (except insofar as such code appears in any filing with the Court or expert report in this case).

b. The Source Code Computer provided by non-party Google shall run a reasonably current version of Microsoft Windows. Non-party Google shall not be obligated to install any software that provides an alternate operating system environment within the Microsoft Windows environment on its Source Code Computer.

c. Non-party Google shall install commercially available software tools for viewing and searching source code requested by the receiving party’s outside counsel and/or experts on the Source Code Computer provided by non-party Google, provided, however, that such other software tools are reasonably necessary for the receiving party to perform its review of the source code consistent with all of the protection herein. Non-party Google shall not be obligated to install requested print formatting software or file comparison tool software but agrees to make reasonable accommodations (such as discarding unwanted pages) to account for any printing errors.

d. The receiving party may print only those portions of files that are necessary to the preparation of its case. In the event that the receiving party believes there is a need to print more than ten (10) contiguous pages of a file, or more than a total of 100 printed pages of a file, 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.

e. Prior to the first inspection of any material produced by Google Inc. designated with the label “CONTAINS CONFIDENTIAL BUSINESS INFORMATION INCLUDING HIGHLY CONFIDENTIAL SOURCE CODE,” the requesting party shall provide ten (10) days notice. The requesting party shall provide two (2) days notice prior to any additional inspections of the same source code files, although Google Inc. 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 material produced by Google Inc. designated with the label “CONTAINS CONFIDENTIAL BUSINESS INFORMATION INCLUDING HIGHLY CONFIDENTIAL SOURCE CODE” at least ten (10) days prior to the first time any such individual is given access to the source code files, after which time Google Inc. 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 material produced by Google Inc. designated with the label “CONTAINS CONFIDENTIAL BUSINESS INFORMATION INCLUDING HIGHLY CONFIDENTIAL SOURCE CODE” after the first time, although Google Inc. will be reasonable in accommodating notice of less than two (2) days.

f. The following provisions shall apply to independent expert witnesses and consultants with access to confidential source code produced by non-party Google Inc.:

i. Any independent expert witness or consultant who is approved by Google Inc. shall not be given access to material produced by Google Inc. designated with the label “CONTAINS CONFIDENTIAL BUSINESS INFORMATION INCLUDING HIGHLY CONFIDENTIAL SOURCE CODE” unless he or she shall have (a) complied with the terms of paragraph 11 and pursuant to paragraph 29(c) above, and (b) agreed in writing not to write source code directly intended for commercial purposes relating to the technical subject matter of the material produced by Google Inc. designated with the label “CONTAINS CONFIDENTIAL BUSINESS INFORMATION INCLUDING HIGHLY CONFIDENTIAL SOURCE CODE” for a period of six (6) months after the issuance of a final, non-appealable decision resolving all issues in this matter.

ii. In addition to the prohibition on outside counsel involved in competitive decision-making on behalf of a party accessing protected materials in paragraph 10(b) of the Protective Order, no independent expert witness or consultant shall have access to material produced by Google Inc. designated with the label “CONTAINS CONFIDENTIAL BUSINESS INFORMATION INCLUDING HIGHLY CONFIDENTIAL SOURCE CODE” unless he or she 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 confidential business information or material produced by Google Inc. designated with the label “CONTAINS CONFIDENTIAL BUSINESS INFORMATION INCLUDING HIGHLY CONFIDENTIAL SOURCE CODE.”

g. For depositions, the receiving party shall not bring copies of any printed material produced by Google Inc. designated with the label “CONTAINS CONFIDENTIAL BUSINESS INFORMATION INCLUDING HIGHLY CONFIDENTIAL SOURCE CODE.” Rather, at least five (5) days before the date of the deposition, the receiving party shall notify Google Inc. about the specific portions of material produced by Google Inc. designated with the label “CONTAINS CONFIDENTIAL BUSINESS INFORMATION INCLUDING HIGHLY CONFIDENTIAL SOURCE CODE” it wishes to use at the deposition, and Google Inc. shall bring printed copies of those portions to the deposition for use by the receiving party. All paper copies of material produced by Google Inc. designated with the label “CONTAINS CONFIDENTIAL BUSINESS INFORMATION INCLUDING HIGHLY CONFIDENTIAL

SOURCE CODE” brought to the deposition shall be securely destroyed in a timely manner following the deposition.

30. Notwithstanding Paragraph 1 of the Protective Order, Protected Materials produced by non-party Google Inc. designated as “CONFIDENTIAL BUSINESS INFORMATION SUBJECT TO PROTECTIVE ORDER” or “CONTAINS CONFIDENTIAL BUSINESS INFORMATION INCLUDING HIGHLY CONFIDENTIAL SOURCE CODE” in accordance with the provisions of paragraph 2 shall only be used in this matter and not in any other matter.

Dated: December 12, 2011

Respectfully submitted,

/s/ Christopher R. J. Pace

/s/ Matthew S. Warren

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CERTIFICATE OF SERVICE

I hereby certify that on December 12, 2011, I filed the foregoing document with the Clerk of the Court. I also certify that the foregoing document is being served this day on all counsel of record identified on the attached Service List via email and CM/ECF.

/s/ Christopher R. J. Pace
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