

RUSS, AUGUST & KABAT

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

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

LINKSMART WIRELESS TECHNOLOGY,
LLC

Plaintiff,

v.

CAESARS ENTERTAINMENT
CORPORATION

Defendant.

Case No.: 2:18-cv-00862-MMD-NJK
CORRECTED
[PROPOSED] PROTECTIVE ORDER
AND E-DISCOVERY ORDER
AS AMENDED

Hon. Miranda M. Du

LINKSMART WIRELESS TECHNOLOGY,
LLC

Plaintiff,

v.

GOLDEN NUGGET, INC. and LANDRY'S
INC.,

Defendants.

Case No.: 2:18-cv-00864-MMD-NJK

LINKSMART WIRELESS TECHNOLOGY,
LLC

Plaintiff,

v.

LAS VEGAS SANDS CORP.,

Defendant.

Case No.: 2:18-cv-00865-MMD-NJK

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

LINKSMART WIRELESS TECHNOLOGY,
LLC
Plaintiff,
v.
MGM RESORTS INTERNATIONAL,
Defendant.

Case No.: 2:18-cv-00867-MMD-NJK

LINKSMART WIRELESS TECHNOLOGY,
LLC
Plaintiff,
v.
WYNN RESORTS, LIMITED,
Defendant.

Case No.: 2:18-cv-00868-MMD-NJK

1 **1. PURPOSE AND LIMITS OF THIS ORDER**

2 Discovery in this action is likely to involve confidential, proprietary, or private information
 3 requiring special protection from public disclosure and from use for any purpose other than this
 4 litigation. Thus, the Court enters this Protective Order. This Order does not confer blanket
 5 protections on all disclosures or responses to discovery, and the protection it gives from public
 6 disclosure and use extends only to the specific material entitled to confidential treatment under the
 7 applicable legal principles. This Order does not automatically authorize the filing under seal of
 8 material designated under this Order. Instead, the parties must comply with LR IA 10-5 if they
 9 seek to file anything under seal. This Order does not govern the use at trial of material designated
 10 under this Order.

11 **2. DESIGNATING PROTECTED MATERIAL**

12 **2.1 Over-Designation Prohibited.** Any party or non-party who designates information or
 13 items for protection under this Order as “CONFIDENTIAL,” “HIGHLY CONFIDENTIAL –
 14 ATTORNEY EYES ONLY,” or “HIGHLY CONFIDENTIAL – SOURCE CODE” (a
 15 “designator”) must only designate specific material that qualifies under the appropriate standards.
 16 To the extent practicable, only those parts of documents, items, or oral or written communications
 17 that require protection shall be designated. Designations with a higher confidentiality level when
 18 a lower level would suffice are prohibited. Mass, indiscriminate, or routinized designations are
 19 prohibited. Unjustified designations expose the designator to sanctions, including the Court’s
 20 striking all confidentiality designations made by that designator. Designation under this Order is
 21 allowed only if the designation is necessary to protect material that, if disclosed to persons not
 22 authorized to view it, would cause competitive or other recognized harm. Material may not be
 23 designated if it has been made public, or if designation is otherwise unnecessary to protect a
 24 secrecy interest. If a designator learns that information or items that it designated for protection do
 25 not qualify for protection at all or do not qualify for the level of protection initially asserted, that
 26 designator must promptly notify all parties that it is withdrawing the mistaken designation.

27 **2.2 Manner and Timing of Designations.** Designation under this Order requires the
 28 designator to affix the applicable legend (“CONFIDENTIAL,” “HIGHLY CONFIDENTIAL –

1 ATTORNEY EYES ONLY,” or “HIGHLY CONFIDENTIAL – SOURCE CODE”) to each page
 2 that contains protected material. For testimony given in deposition or other proceeding, the
 3 designator shall specify all protected testimony and the level of protection being asserted. It may
 4 make that designation during the deposition or proceeding, or may invoke, on the record or by
 5 written notice to all parties on or before the next business day, a right to have up to 21 days from
 6 the deposition or proceeding to make its designation.

7 **2.2.1** A party or non-party that makes original documents or materials available for
 8 inspection need not designate them for protection until after the inspecting party has
 9 identified which material it would like copied and produced. During the inspection and
 10 before the designation, all material shall be treated as HIGHLY CONFIDENTIAL –
 11 ATTORNEY EYES ONLY. After the inspecting party has identified the documents it
 12 wants copied and produced, the producing party must designate the documents, or portions
 13 thereof, that qualify for protection under this Order.

14 **2.2.2** Parties shall give advance notice if they expect a deposition or other
 15 proceeding to include designated material so that the other parties can ensure that only
 16 authorized individuals are present at those proceedings when such material is disclosed or
 17 used. The use of a document as an exhibit at a deposition shall not in any way affect its
 18 designation. Transcripts containing designated material shall have a legend on the title page
 19 noting the presence of designated material, and the title page shall be followed by a list of
 20 all pages (including line numbers as appropriate) that have been designated, and the level
 21 of protection being asserted. The designator shall inform the court reporter of these
 22 requirements. Any transcript that is prepared before the expiration of the 21-day period for
 23 designation shall be treated during that period as if it had been designated HIGHLY
 24 CONFIDENTIAL – ATTORNEY EYES ONLY unless otherwise agreed. After the
 25 expiration of the 21-day period, the transcript shall be treated only as actually designated.

26 **2.3 Inadvertent Failures to Designate.** An inadvertent failure to designate does not,
 27 standing alone, waive protection under this Order. Upon timely assertion or correction of a
 28

1 designation, all recipients must make reasonable efforts to ensure that the material is treated
 2 according to this Order.

3 **3. CHALLENGING CONFIDENTIALITY DESIGNATIONS**

4 All challenges to confidentiality designations shall proceed as follows:

5 **3.1 Timing of Challenges.** Any Party or Non-Party may challenge a designation of
 6 confidentiality at any time prior to the discovery cutoff date. Unless a prompt challenge to a
 7 Designating Party’s confidentiality designation is necessary to avoid foreseeable, substantial
 8 unfairness, unnecessary economic burdens, or a significant disruption or delay of the litigation, a
 9 Party does not waive its right to challenge a confidentiality designation by electing not to mount a
 10 challenge promptly after the original designation is disclosed.

11 **3.2 Meet and Confer.** The Challenging Party shall initiate the dispute resolution process
 12 by providing written notice of each designation it is challenging and describing the basis for each
 13 challenge. To avoid ambiguity as to whether a challenge has been made, the written notice must
 14 recite that the challenge to confidentiality is being made in accordance with this specific paragraph
 15 of the Protective Order. The parties shall attempt to resolve each challenge in good faith and must
 16 begin the process by conferring directly (in voice to voice dialogue; other forms of communication
 17 are not sufficient) within 14 days of the date of service of notice. In conferring, the Challenging
 18 Party must explain the basis for its belief that the confidentiality designation was not proper and
 19 must give the Designating Party an opportunity to review the designated material, to reconsider
 20 the circumstances, and, if no change in designation is offered, to explain the basis for the chosen
 21 designation. A Challenging Party may proceed to the next stage of the challenge process only if
 22 (1) it has engaged in this meet and confer process first, or (2) establishes that the Designating Party
 23 is unwilling to participate in the meet and confer process in a timely manner.

24 **3.3 Judicial Intervention.** If the Parties cannot resolve a challenge without court
 25 intervention, ~~the Designating Party shall file and serve a motion to retain confidentiality under~~
 26 ~~within 21 days of the initial notice of challenge or within 14 days of the parties agreeing that the~~
 27 ~~meet and confer process will not resolve their dispute, whichever is later. In addition,~~ the
 28 Challenging Party may file a motion challenging a confidentiality designation at any time after

1 complying with the meet and confer requirements imposed in the preceding paragraph, including
 2 a challenge to the designation of a deposition transcript or any portions thereof. Any motion
 3 brought pursuant to this provision, ~~whether by the Designating Party or Challenging Party~~, must
 4 be accompanied by a competent declaration affirming that the movant has complied with the meet
 5 and confer requirements imposed by the preceding paragraph.

6 The burden of persuasion in any such challenge proceeding shall be on the Designating
 7 Party. Frivolous **designations or challenges,** an improper purpose (e.g., to harass or impose
 8 unnecessary expenses and burdens on other parties) may expose the **pertinent** Party to
 9 sanctions. ~~Unless the Designating Party has waived the confidentiality designation by failing to~~
 10 ~~file a motion to retain confidentiality as described above,~~ all parties shall continue to afford the
 11 material in question the level of protection to which it is entitled under the Producing Party's
 12 designation until the court rules on the challenge.

13 **4. ACCESS TO DESIGNATED MATERIAL**

14 **4.1 Basic Principles.** A receiving party may use designated material only for this litigation.
 15 Designated material may be disclosed only to the categories of persons and under the conditions
 16 described in this Order. Before disclosure of any designated material is made to any category of
 17 persons for whom signature of the Agreement to Be Bound (Exhibit A) is required, such signed
 18 copies of Exhibit A must be provided to the disclosing party.

19 **4.2 Disclosure of CONFIDENTIAL Material Without Further Approval.** Unless
 20 otherwise ordered by the Court or permitted in writing by the designator, a receiving party may
 21 disclose any material designated CONFIDENTIAL only to:

22 **4.2.1** The receiving party's outside counsel of record in this action and employees
 23 of outside counsel of record to whom disclosure is reasonably necessary;

24 **4.2.2** A maximum of three individuals (officers, directors, in-house counsel, and
 25 employees) for each receiving party who either have responsibility for making decisions
 26 dealing directly with the litigation of this litigation, or who are assisting outside counsel in
 27 this litigation, and who have signed the Agreement to Be Bound (Exhibit A);
 28

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

4.2.3 Experts retained by the receiving party’s outside counsel of record to whom disclosure is reasonably necessary, and who have signed the Agreement to Be Bound (Exhibit A);

4.2.4 The Court and its personnel;

4.2.5 Outside court reporters and their staff, professional jury or trial consultants, and professional vendors to whom disclosure is reasonably necessary, and who have signed the Agreement to Be Bound (Exhibit A);

4.2.6 During their depositions, witnesses in the action to whom disclosure is reasonably necessary and who have signed the Agreement to Be Bound (Exhibit A); and

4.2.7 The author or recipient of a document containing the material, or a custodian or other person who otherwise possessed or knew the information.

4.3 Disclosure of HIGHLY CONFIDENTIAL – ATTORNEY EYES ONLY and HIGHLY CONFIDENTIAL – SOURCE CODE Material Without Further Approval. Unless permitted in writing by the designator, a receiving party may disclose material designated HIGHLY CONFIDENTIAL – ATTORNEY EYES ONLY or HIGHLY CONFIDENTIAL – SOURCE CODE without further approval only to:

4.3.1 The receiving party’s outside counsel of record in this action and employees of outside counsel of record to whom it is reasonably necessary to disclose the information;

4.3.2 The Court and its personnel;

4.3.3 Outside court reporters and their staff, professional jury or trial consultants, and professional vendors to whom disclosure is reasonably necessary, and who have signed the Agreement to Be Bound (Exhibit A); and

4.3.4 The author or recipient of a document containing the material, or a custodian or other person who otherwise possessed or knew the information.

4.4 Procedures for Approving or Objecting to Disclosure of HIGHLY CONFIDENTIAL – ATTORNEY EYES ONLY or HIGHLY CONFIDENTIAL – SOURCE CODE Material to In-House Counsel or Experts. Unless agreed to in writing by the designator:

1 **4.4.1** A party seeking to disclose to in-house counsel any material designated
2 HIGHLY CONFIDENTIAL – ATTORNEY EYES ONLY must first make a written
3 request to the designator providing the full name of the in-house counsel, the city and state
4 of such counsel’s residence, and such counsel’s current and reasonably foreseeable future
5 primary job duties and responsibilities in sufficient detail to determine present or potential
6 involvement in any competitive decision-making. In-house counsel are not authorized to
7 receive material designated HIGHLY CONFIDENTIAL – SOURCE CODE.

8 **4.4.2** A party seeking to disclose to an expert retained by outside counsel of record
9 any information or item that has been designated HIGHLY CONFIDENTIAL –
10 ATTORNEY EYES ONLY or HIGHLY CONFIDENTIAL – SOURCE CODE must first
11 make a written request to the designator that (1) identifies the general categories of
12 HIGHLY CONFIDENTIAL – ATTORNEY EYES ONLY or HIGHLY CONFIDENTIAL
13 – SOURCE CODE information that the receiving party seeks permission to disclose to the
14 expert, (2) sets forth the full name of the expert and the city and state of his or her primary
15 residence, (3) attaches a copy of the expert’s current resume, (4) identifies the expert’s
16 current employer(s), (5) identifies each person or entity from whom the expert has received
17 compensation or funding for work in his or her areas of expertise (including in connection
18 with litigation) in the past five years, and (6) identifies (by name and number of the case,
19 filing date, and location of court) any litigation where the expert has offered expert
20 testimony, including by declaration, report, or testimony at deposition or trial, in the past
21 five years. If the expert believes any of this information at (4) - (6) is subject to a
22 confidentiality obligation to a third party, then the expert should provide whatever
23 information the expert believes can be disclosed without violating any confidentiality
24 agreements, and the party seeking to disclose the information to the expert shall be
25 available to meet and confer with the designator regarding any such confidentiality
26 obligations.

27 **4.4.3** A party that makes a request and provides the information specified in
28 paragraphs 4.4.1 or 4.4.2 may disclose the designated material to the identified in-house

1 counsel or expert unless, within seven days of delivering the request, the party receives a
 2 written objection from the designator providing detailed grounds for the objection.

3 **4.4.4** A Party that receives a timely written objection must meet and confer with
 4 the Designating Party (through direct voice to voice dialogue) to try to resolve the matter
 5 by agreement within seven days of the written objection. If no agreement is reached, the
 6 Party seeking to make the disclosure to the Expert may file a motion seeking permission
 7 from the court to do so. Any such motion must describe the circumstances with specificity,
 8 set forth in detail the reasons why disclosure to the Expert is reasonably necessary, assess
 9 the risk of harm that the disclosure would entail, and suggest any additional means that
 10 could be used to reduce that risk. In addition, any such motion must be accompanied by a
 11 competent declaration describing the parties’ efforts to resolve the matter by agreement
 12 (i.e., the extent and the content of the meet and confer discussions) and setting forth the
 13 reasons advanced by the Designating Party for its refusal to approve the disclosure. In any
 14 such proceeding, the Party opposing disclosure to the Expert shall bear the burden of
 15 proving that the risk of harm that the disclosure would entail (under the safeguards
 16 proposed) outweighs the Receiving Party’s need to disclose the Protected Material to its
 17 Expert.

18 **5. SOURCE CODE**

19 **5.1 Designation of Source Code.** If production of source code is necessary, a party may
 20 designate it as HIGHLY CONFIDENTIAL – SOURCE CODE if it is, or includes, confidential,
 21 proprietary, or trade secret source code.

22 **5.2 Location and Supervision of Inspection.** Any HIGHLY CONFIDENTIAL –
 23 SOURCE CODE produced in discovery shall be made available for inspection, in a format
 24 allowing it to be reasonably reviewed and searched, during normal business hours, which for
 25 purposes of this paragraph shall be 9:00 a.m. through 5:00 p.m. local time, or at other mutually
 26 agreeable times, at an office of the designating party’s counsel or another mutually agreeable
 27 location. The source code shall be made available for inspection on a secured computer in a secured
 28 room, and the inspecting party shall not copy, remove, or otherwise transfer any portion of the

1 source code onto any recordable media or recordable device. The designator may visually monitor
 2 the activities of the inspecting party’s representatives during any source code review, but only to
 3 ensure that there is no unauthorized recording, copying, or transmission of the source code.

4 **5.3 Paper Copies of Source Code Excerpts.** The inspecting party shall be permitted to
 5 request up to a total of two hundred fifty (250) pages of printouts of source code, all of which shall
 6 be designated and clearly labeled “HIGHLY CONFIDENTIAL – SOURCE CODE,” and the
 7 inspecting party shall maintain a log of all such files that are printed or photocopied. Any printed
 8 portion that consists of more than forty (40) pages of continuous block of the source code shall be
 9 presumed to be excessive, and the burden shall be on the inspecting party to demonstrate the need
 10 for such a printed copy. If, at any time, the inspecting party believes that it requires more than a
 11 total of two hundred fifty (250) pages of printed source code or additional copies, then the
 12 inspecting party may request for additional pages or copies, and the producing party and the
 13 inspecting party will meet and confer in good faith to resolve the issue, and, if not resolved, then
 14 bring the issue to the Court for resolution.

15 **5.4 Access Record.** The inspecting party shall maintain a record of any individual who has
 16 inspected any portion of the source code in electronic or paper form, and shall maintain all paper
 17 copies of any printed portions of the source code in a secured, locked area. The inspecting party
 18 shall not convert any of the information contained in the paper copies into any electronic format
 19 other than for the preparation of a pleading, exhibit, expert report, discovery document, deposition
 20 transcript, or other Court document. Any paper copies used during a deposition shall be retrieved
 21 at the end of each day and must not be left with a court reporter or any other unauthorized
 22 individual.

23 **6. PROSECUTION BAR**

24 Absent written consent from the designator, any attorney, whether in-house or outside
 25 counsel, who receives access to HIGHLY CONFIDENTIAL – ATTORNEY EYES ONLY or
 26 HIGHLY CONFIDENTIAL – SOURCE CODE information shall not be involved in the
 27 prosecution of patents or patent applications concerning the field of the invention of the patents-
 28 in-suit for the receiving party or its acquirer, successor, predecessor, or other affiliate during the

1 pendency of this action and for one year after its conclusion, including any appeals. “Prosecution”
 2 means drafting, amending, advising on the content of, or otherwise affecting the scope or content
 3 of patent claims or specifications. These prohibitions shall not preclude counsel from participating
 4 in reexamination or *inter partes* review proceedings to challenge or defend the validity of any
 5 patent, but counsel may not participate in the drafting of amended claims in any such proceedings.

6 **7. ELECTRONICALLY STORED INFORMATION**

7 **7.1** Absent a showing of good cause, general ESI production requests under Federal Rules
 8 of Civil Procedure 34 and 45, or compliance with a mandatory disclosure requirement of this
 9 Court, shall not include metadata. But fields showing the date and time that the document was sent
 10 and received, as well as the complete distribution list, shall be included in the production if such
 11 fields exist.

12 **7.2** Absent agreement of the parties or further Court order, the following parameters apply
 13 to ESI production:

14 **7.2.1 General Document Image Format.** Each electronic document shall be
 15 produced in single-page Tagged Image File Format (“TIFF”). TIFF files shall be single
 16 page and shall be named with a unique production number followed by the appropriate file
 17 extension. Load files stating the location and unitization of the TIFF files shall be provided.
 18 If a document is more than one page, the unitization of the document and any attachments
 19 and/or affixed notes shall be maintained as they existed in the original document.

20 **7.2.2 Text-Searchable Documents.** Documents shall be produced in text-
 21 searchable format at no cost to the receiving party.

22 **7.2.3 Footer.** Each document image shall contain a footer with a sequentially
 23 ascending production number.

24 **7.2.4 Native Files.** A party may make a reasonable request to receive the document
 25 in its native format, and upon receiving such a request, the producing party shall produce
 26 the document in its native format.

27 **7.2.5 No Backup Restoration Required.** Absent a showing of good cause, no
 28 party need restore any form of media upon which backup data is maintained in a party’s

1 normal or allowed processes, including but not limited to backup tapes, disks, SAN, and
2 other forms of media.

3 **7.2.6 Voicemail and Mobile Devices.** Absent a showing of good cause,
4 voicemails, PDAs, and mobile phones are deemed not reasonably accessible and need not
5 be collected and preserved.

6 **7.3** General ESI production requests under Federal Rules of Civil Procedure 34 and 45, or
7 compliance with a mandatory disclosure order, shall not include email or other forms of electronic
8 correspondence (collectively “email”). To obtain email, parties must propound specific email
9 production requests.

10 **7.3.1** Email production requests shall be phased to occur timely after the parties
11 have exchanged initial disclosures and a specific listing of the eight most likely email
12 custodians, including a short description of why each custodian is believed to be significant
13 under the pleaded claims and defenses and the exchanged infringement and invalidity
14 contentions. The exchange of this information shall occur at the time the parties exchange
15 claim terms they contend require construction. Each requesting party may also propound
16 up to five written discovery requests and take one deposition per producing party to identify
17 the proper custodians, proper search terms, and proper time frame for email production
18 requests. The Court may allow additional discovery upon a showing of good cause.

19 **7.3.2** Email production requests shall identify the custodian, search terms, and time
20 frame. The parties shall cooperate to identify the proper custodians, proper search terms,
21 and proper time frame. Each requesting party shall limit its email production requests to a
22 total of five custodians per producing party for all such requests. The Court will consider
23 contested requests for additional or fewer custodians per producing party, upon showing a
24 distinct need based on the size, complexity, and issues of the specific case.

25 **7.3.3** Each requesting party shall limit its email production requests to a total of
26 eight search terms per custodian per party. The Court will consider contested requests for
27 additional or fewer search terms per custodian upon showing a distinct need based on the
28 size, complexity, and issues of the specific case. The search terms shall be narrowly tailored

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

to particular issues. Indiscriminate terms, such as the producing company’s name or its product name, are inappropriate unless combined with narrowing search criteria that sufficiently reduce the risk of overproduction. A conjunctive combination of multiple words or phrases (for example, “computer” and “system”) narrows the search and shall count as a single search term. A disjunctive combination of multiple words or phrases (for example, “computer” or “system”) broadens the search, and thus each word or phrase shall count as a separate search term unless they are variants of the same word. Use of narrowing search criteria (for example, “and,” “but not,” “w/x”) is encouraged to limit the production and will be considered when determining whether to shift costs for disproportionate discovery.

7.4 Under Federal Rule of Evidence 502(d), the inadvertent production of privileged or work product protected ESI is not a waiver in this case or in any other federal or state proceeding.

7.5 The mere production of ESI in litigation as part of a mass production shall not itself constitute a waiver for any purpose.

7.6 Except as expressly stated, nothing in this order affects the parties’ discovery obligations under Federal or Local Rules.

8. PROTECTED MATERIAL SUBPOENAED OR ORDERED PRODUCED IN OTHER LITIGATION

8.1 Subpoenas and Court Orders. This Order in no way excuses non-compliance with a lawful subpoena or court order. The purpose of the duties described in this section is to alert the interested parties to the existence of this Order and to give the designator an opportunity to protect its confidentiality interests in the court where the subpoena or order issued.

8.2 Notification Requirement. If a party is served with a subpoena or a court order issued in other litigation that compels disclosure of any information or items designated in this action as CONFIDENTIAL, HIGHLY CONFIDENTIAL – ATTORNEY EYES ONLY, or HIGHLY CONFIDENTIAL – SOURCE CODE, that party must:

8.2.1 Promptly notify the designator in writing. Such notification shall include a copy of the subpoena or court order;

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

8.2.2 Promptly notify in writing the party who caused the subpoena or order to issue in the other litigation that some or all of the material covered by the subpoena or order is subject to this Order. Such notification shall include a copy of this Order; and

8.2.3 Cooperate with all reasonable procedures sought by the designator whose material may be affected.

8.3 Wait For Resolution of Protective Order. If the designator timely seeks a protective order, the party served with the subpoena or court order shall not produce any information designated in this action as CONFIDENTIAL, HIGHLY CONFIDENTIAL – ATTORNEY EYES ONLY or HIGHLY CONFIDENTIAL – SOURCE CODE before a determination by the court where the subpoena or order issued, unless the party has obtained the designator’s permission. The designator shall bear the burden and expense of seeking protection of its confidential material in that court.

9. UNAUTHORIZED DISCLOSURE OF DESIGNATED MATERIAL

If a receiving party learns that, by inadvertence or otherwise, it has disclosed designated material to any person or in any circumstance not authorized under this Order, it must immediately (1) notify in writing the designator of the unauthorized disclosures, (2) use its best efforts to retrieve all unauthorized copies of the designated material, (3) inform the person or persons to whom unauthorized disclosures were made of all the terms of this Order, and (4) use reasonable efforts to have such person or persons execute the Agreement to Be Bound (Exhibit A).

10. INADVERTENT PRODUCTION OF PRIVILEGED OR OTHERWISE PROTECTED MATERIAL

When a producing party gives notice that certain inadvertently produced material is subject to a claim of privilege or other protection, the obligations of the receiving parties are those set forth in Federal Rule of Civil Procedure 26(b)(5)(B). This provision is not intended to modify whatever procedure may be established in an e-discovery order that provides for production without prior privilege review pursuant to Federal Rule of Evidence 502(d) and (e).

11. FILING UNDER SEAL

~~Without written permission from the designator or a Court order, a party may not file in the public record in this action any designated material. A party seeking to file under seal any designated material must comply with LR IA 10-5. Filings may be made under seal only pursuant to a court order authorizing the sealing of the specific material at issue. The fact that a document has been designated under this Order is insufficient to justify filing under seal. Instead, parties~~

See order issued concurrently herewith

the basis for confidentiality of each document sought to be filed under seal. Because ~~than the designator will often be seeking to file designated material, cooperation~~

~~between the parties in preparing, and in reducing the number and extent of, requests for under seal filing is essential. If a receiving party's request to file designated material under seal pursuant to LR IA 10-5 is denied by the Court, then the receiving party may file the material in the public record unless (1) the designator seeks reconsideration within four days of the denial, or (2) as otherwise instructed by the Court.~~

12. FINAL DISPOSITION

Within 60 days after the final disposition of this action, each party shall return all designated material to the designator or destroy such material, including all copies, abstracts, compilations, summaries, and any other format reproducing or capturing any designated material. The receiving party must submit a written certification to the designator by the 60-day deadline that (1) identifies (by category, where appropriate) all the designated material that was returned or destroyed, and (2) affirms that the receiving party has not retained any copies, abstracts, compilations, summaries, or any other format reproducing or capturing any of the designated material. This provision shall not prevent counsel from retaining an archival copy of all pleadings,

///

///

///

///

///

///

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

Motion papers, trial, deposition, and hearing transcripts, legal memoranda, correspondence, deposition and trial exhibits, expert reports, attorney work product, and consultant and expert work product, even if such materials contain designated material. Any such archival copies remain subject to this Order.

IT IS SO ORDERED.



UNITED STATES MAGISTRATE JUDGE

DATED: October 2, 2018.

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

EXHIBIT A

AGREEMENT TO BE BOUND

I, _____ declare under penalty of perjury that I have read in its entirety and understand the Protective Order that was issued by the United States District Court for the District of Nevada in the consolidated case of *Linksmart Wireless Technology, LLC v. Caesars Entertainment Corporation*, Case No.: 2:18-cv-00862-MMD-NJK. I agree to comply with and to be bound by all the terms of this Protective Order, and I understand and acknowledge that failure to so comply could expose me to sanctions and punishment for contempt. I solemnly promise that I will not disclose in any manner any information or item that is subject to this Protective Order to any person or entity except in strict compliance with this Order.

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

I hereby appoint _____ as my agent for service of process in connection with this action or any proceedings related to enforcement of this Order.

Date: _____

City and State where sworn and signed: _____

Printed name: _____

Signature: _____