

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

TECHNO VIEW IP, INC.,	)	
	)	
Plaintiff,	)	C.A. No. 17-386 (VAC)(CJB)
	)	
v.	)	<b>JURY TRIAL DEMANDED</b>
	)	
OCULUS VR, LLC and	)	
FACEBOOK, INC.,	)	
	)	
Defendants.	)	
_____	)	

**STIPULATED PROTECTIVE ORDER**

WHEREAS, it may be necessary or desirable to take discovery of information which is believed to be confidential and proprietary by the holder thereof; and

WHEREAS, the parties hereto desire to obtain a protective order to prevent dissemination and unnecessary disclosure of such information on the public record;

WHEREAS, such information likely will include, among other things, information about sensitive products and/or services, proprietary design and development materials of products and/or services, source code, strategic decision-making information, and marketing and sales information;

IT IS HEREBY STIPULATED, and subject to the Court’s approval, pursuant to Federal Rules of Civil Procedure, Rule 26(c), that the following provisions shall govern the handling of such confidential information and documents in these proceedings.

1. **PURPOSES AND LIMITATIONS**

Disclosure and discovery activity in this action are likely to involve production of confidential, proprietary, or private information for which special protection from public disclosure and from use for any purpose other than prosecuting this litigation may be warranted. Accordingly, the parties hereby stipulate to the following Stipulated Protective Order. The

parties acknowledge that this Order does not confer blanket protections on all disclosures or responses to discovery and that the protection it affords from public disclosure and use extends only to the limited information or items that are entitled to confidential treatment under the applicable legal principles.

## 2. DEFINITIONS

2.1 Challenging Party: a Party or Non-Party that challenges the designation of information or items under this Order.

2.2 “CONFIDENTIAL” Information or Items: information (regardless of how it is generated, stored or maintained) or tangible things that qualify for protection under Federal Rule of Civil Procedure 26(c).

2.4 Counsel (without qualifier): Outside Counsel of Record (as well as their support staff) and In-House Counsel (as well as their support staff).

2.5 Designating Party: a Party or Non-Party that designates information or items that it produces in disclosures or in responses to discovery as

- a) “CONFIDENTIAL,”
- b) “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY,”
- c) “HIGHLY CONFIDENTIAL – OUTSIDE ATTORNEYS’ EYES ONLY,” or
- d) “HIGHLY CONFIDENTIAL – SOURCE CODE – OUTSIDE ATTORNEYS’ EYES ONLY.”

2.6 Disclosure or Discovery Material: all items or information, regardless of the medium or manner in which it is generated, stored, or maintained (including, among other things, testimony, transcripts, and tangible things), that are produced or generated in disclosures or responses to discovery in this matter.

2.7 Expert: a person with specialized knowledge or experience in a matter pertinent to the litigation who (1) has been retained by a Party or its Counsel to serve as an expert witness or as a consultant in this action subject to Section 7.5, below (2) is not a current employee of a

Party, an affiliated business entity of a Party, or a Party's competitor, and (3) at the time of retention, is not anticipated to become an employee of a Party, an affiliated business entity of a Party, or a Party's competitor.

2.8 “HIGHLY CONFIDENTIAL – OUTSIDE ATTORNEYS’ EYES ONLY”

Information or Items: extremely sensitive “Confidential Information or Items,” disclosure of which to another Party or Non-Party would create a substantial risk of serious harm that could not be avoided by less restrictive means.

2.9 “HIGHLY CONFIDENTIAL – SOURCE CODE – OUTSIDE ATTORNEYS’

EYES ONLY” Information or Items: extremely sensitive “Confidential Information or Items” comprising computer Source Code and associated comments and revision histories, formulas, engineering specifications, or schematics that define or otherwise describe in detail the algorithms or structure of software or hardware designs, the disclosure of which to another Party or Non-Party would create a substantial risk of serious harm that could not be avoided by less restrictive means.

2.11 In-House Counsel: attorneys who are employees of a Party to this action. In-House Counsel does not include Outside Counsel of Record or any other outside counsel.

2.12 Non-Party: any natural person, partnership, corporation, association, or other legal entity not named as a Party to this action.

2.13 Outside Counsel of Record: attorneys who are not employees of a Party to this action but are retained to represent or advise a Party to this action including Counsel who have appeared in this action on behalf of that Party or are employed by a law firm that has appeared on behalf of that Party.

2.14 Party: any party to this action, including all of its officers, directors, employees, consultants, retained experts, and Outside Counsel of Record (and their support staffs).

2.15 Producing Party: a Party or Non-Party that produces Disclosure or Discovery Material in this action.

2.16 Professional Vendors: persons or entities that provide litigation support services (e.g., photocopying, videotaping, translating, preparing exhibits or demonstrations, and organizing, storing, or retrieving data in any form or medium) and their employees and subcontractors.

2.17 Protected Material: any Disclosure or Discovery Material that is designated as “CONFIDENTIAL,” “HIGHLY CONFIDENTIAL – OUTSIDE ATTORNEYS’ EYES ONLY,” or as “HIGHLY CONFIDENTIAL – SOURCE CODE – OUTSIDE ATTORNEYS’ EYES ONLY.”

2.18 Receiving Party: a Party that receives Disclosure or Discovery Material from a Producing Party.

2.19 Source Code: computer instructions, data structures, and data definitions expressed in a form suitable for input to an assembler, compiler, translator, or other data processing module. Source Code may include graphical and design elements and may be included in structured files in formats including, but not limited to, HTML, XML, XSL, and SGML.

### 3. SCOPE

The protections conferred by this Stipulation and Order cover not only Protected Material (as defined above), but also (1) any information copied or extracted from Protected Material; (2) all copies, excerpts, summaries, or compilations of Protected Material; and (3) any testimony, conversations, or presentations by Parties or their Counsel that reveal Protected Material. However, the protections conferred by this Stipulation and Order do not cover the following information:

(a) any information that is in the public domain at the time of disclosure to a Receiving Party or becomes part of the public domain after its disclosure to a Receiving Party as a result of publication not involving a violation of this Order, including becoming part of the public record through trial or otherwise; and

(b) any information known to the Receiving Party prior to the disclosure or obtained by the Receiving Party after the disclosure from a source who obtained the information lawfully and under no obligation of confidentiality to the Designating Party. However, if the accuracy of information is confirmed only through the review of Protected Material, then the fact that such information is accurate, and any additional details that are not publicly available learned from review of Protected Material, shall not be considered to be in the public domain. As an example, this would apply to the confirmation through access to Protected Material of unsubstantiated media speculations or rumors (*e.g.*, statements and articles speculating about an unreleased product that are only capable of being confirmed to be accurate through review of Protected Material). The fact that such speculations are actually accurate and any additional details gleaned from Protected Material would not be “public domain” information, and such information is explicitly included in the definition of “Protected Material” set forth above. For avoidance of doubt, the underlying statements set forth in the publicly available material would still constitute “public domain” information; only the confirmation of accuracy of such statements and additional information learned from Protected Material would be considered Protected Material.

#### 4. DURATION

Even after final disposition of this litigation, 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. Final disposition shall be deemed to be the later of (1) dismissal of all claims and defenses in this action, with or without prejudice; and (2) final judgment herein after the completion and exhaustion of all appeals, re-hearings, remands, trials, or reviews of this action, including the time limits for filing any motions or applications for extension of time pursuant to applicable law and the time limits for filing a petition for writ of certiorari to the Supreme Court of the United States if applicable. However, any Protected Information that enters the public domain through no fault of the Receiving Party shall no longer be considered

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