

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
WACO DIVISION**

VLSI TECHNOLOGY LLC,

Plaintiff,

v.

INTEL CORPORATION,

Defendant.

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Lead Case: No. 6:19-cv-254-ADA

*(Consolidated with No. 6:19-cv-255-
ADA and No. 6:19-cv-256-ADA)*

JURY TRIAL DEMANDED

AGREED PROTECTIVE ORDER

To expedite the flow of discovery material, to facilitate the prompt resolution of disputes over confidentiality of discovery materials, to adequately protect information the parties are entitled to keep confidential, to ensure that only materials the parties are entitled to keep confidential are subject to such treatment, and to ensure that the parties are permitted reasonable necessary uses of such materials in preparation for and in the conduct of trial, pursuant to Fed. R. Civ. P. 26(c), it is hereby **ORDERED THAT**:

A. Definitions

1. "Party": any party to this action, including all of its officers, directors, employees, consultants, retained experts, and outside counsel (and their support staff).
2. "Material": all information, testimony, documents, and things produced, served, or otherwise provided in this action by the Parties or by non-parties.
3. "CONFIDENTIAL Material": information, documents, and things the Designating Party believes in good faith is not generally known to others, and which 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. This designation includes all Material referring or

relating to the foregoing, including but not limited to copies, summaries, and abstracts of the foregoing.

4. "OUTSIDE COUNSEL EYES ONLY Material": information, documents, and things the Designating Party believes in good faith is not generally known to others and has significant competitive value such that unrestricted disclosure to others would create a substantial risk of serious injury, and which 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 significantly sensitive and protected by a right to privacy under federal or state law or any other applicable privilege or right related to confidentiality or privacy. The designation is reserved for information that constitutes proprietary financial or technical or commercially sensitive competitive information that the Designating Party maintains as highly confidential in its business, including information obtained from a non-party pursuant to a Nondisclosure Agreement ("NDA"), information relating to future products, strategic plans, non-public financial data, documents that would reveal trade secrets, licensing documents or licensing communications, and settlement agreements or settlement communications, the disclosure of which is likely to cause harm to the competitive position of the Designating Party. This designation includes all Material referring or relating to the foregoing, including but not limited to copies, summaries, and abstracts of the foregoing.

5. "OUTSIDE COUNSEL EYES ONLY – SOURCE CODE": C, C++, assembler, digital signal processing (DSP) programming language, firmware source code, register transfer language (RTL), hardware description language (HDL), circuit simulation files, non-programing files that are part of the source code development suite (such as README, Release Note, log and input files), design files (schematics, netlists, and layout files), microcode, and/or similarly sensitive code or schematics (i.e., representations of any silicon mask or circuit design, diagram, or blueprint containing specific gate-level circuit design representations) (collectively, "Source Code") that the Designating Party believes in

good faith is not generally known to others and has significant competitive value such that unrestricted disclosure to others would create a substantial risk of serious injury, and which 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 significantly sensitive and protected by a right to privacy under federal or state law or any other applicable privilege or right related to confidentiality or privacy. This designation includes all Material referring or relating to the foregoing, including but not limited to copies, summaries, and abstracts of the foregoing. Any document designated as "OUTSIDE COUNSEL EYES ONLY – SOURCE CODE" information is automatically designated as SUBJECT TO PROSECUTION BAR in Section H.

6. "OUTSIDE COUNSEL EYES ONLY – PROCESS RECIPES": especially sensitive semiconductor fabrication processes documentation (process flow specifications, operating specifications, process sequence documents, die layout files, and process recipes) (collectively "Process Recipes") which the Designating Party believes in good faith is not generally known to others, which has significant competitive value such that unrestricted disclosure to others would create a substantial risk of serious injury, and which the Designating Party, in the ordinary course of business, takes precautions to protect, and, further, which 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 significantly sensitive and protected by a right to privacy under federal or state law or any other applicable privilege or right related to confidentiality or privacy. This designation includes all Material referring or relating to the foregoing, including but not limited to copies, summaries, and abstracts of the foregoing. Intel states that it treats Process Recipe Material in a manner that is at least as protective as Source Code. Any document designated as "OUTSIDE COUNSEL EYES ONLY – PROCESS RECIPES" information is automatically designated as SUBJECT TO PROSECUTION BAR in Section H.

7. "Producing Party": a Party or non-party that produces Material in this action.
8. "Receiving Party": a Party that receives Material from a Producing Party.
9. "Designated Material": Material that is designated "CONFIDENTIAL", "OUTSIDE COUNSEL EYES ONLY", "OUTSIDE COUNSEL EYES ONLY – SOURCE CODE" or "OUTSIDE COUNSEL EYES ONLY – PROCESS RECIPE" under this Order.
10. "Designating Party": a Party or non-party that designates Material as "CONFIDENTIAL", "OUTSIDE COUNSEL EYES ONLY", "OUTSIDE COUNSEL EYES ONLY – SOURCE CODE" or "OUTSIDE COUNSEL EYES ONLY – PROCESS RECIPE".
11. "Counsel of Record": (i) outside counsel who appears on the pleadings as counsel for a Party; (ii) partners, associates, and employees of such outside counsel to whom it is reasonably necessary to disclose the information for this litigation, including supporting personnel employed by the attorneys, such as paralegals, legal translators, legal secretaries, legal clerks, and shorthand reporters; (iii) independent legal translators retained to translate in connection with this action, or independent shorthand reporters retained to record and transcribe testimony in connection with this action. "Counsel of Record" does not include any person who is an employee, director, or officer of a Party or a Party's affiliates even if that person appears on the pleadings as counsel for a Party.
12. "Litigation Managers": an employee in a Party's legal department or intellectual property division whose primary responsibilities include overseeing this litigation, who is not a competitive decisionmaker and who is not a Board member or Board-appointed officer of that Party. For the avoidance of doubt, an individual is not a competitive decisionmaker solely by virtue of participating in the negotiation of settlement agreements. Each Party may have a maximum of two Litigation Managers. Either party

may substitute one or more of its Litigation Managers with reasonable notice to the other party.

13. "Outside Consultant": a person with specialized knowledge or experience in a matter pertinent to the action who has been retained by a Party or its Counsel of Record to serve as an expert witness or as a consultant in this action and who is not a current employee, officer, or director of a Party or of a competitor of a Party and who, at the time of retention, is not anticipated to become an employee, officer, or director of a Party or of a competitor of a Party.

14. "Professional Vendors": persons or entities that provide litigation support services (e.g., photocopying, organizing, storing, or retrieval of data in any form or medium, videotaping, translating, designing and preparing exhibits, graphics, or demonstrations, etc.) and their employees and subcontractors. This definition includes a professional jury or trial consultant retained in connection with this litigation and mock jurors retained by such a consultant to assist them in their work. Professional Vendors do not include consultants who fall within the definition of Outside Consultant.

B. Scope

15. The protections conferred by this Order cover not only Designated Material (as defined above), but also any information copied or extracted therefrom, as well as all copies, excerpts, summaries, or compilations thereof. Nothing herein changes in any way the discovery provisions of the Federal Rules of Civil Procedure or the Court's deadlines. 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, the rules of the United States District Court for the Western District of Texas, and the Court's orders applicable to this case.

C. Access to Designated Material

16. **CONFIDENTIAL Material:** Unless otherwise ordered by the Court or permitted in writing by the Designating Party, a Receiving Party may disclose any information, document, or thing designated "CONFIDENTIAL" only to:

(a) persons who appear on the face of Designated Material as an author, addressee, or recipient thereof, provided, however, that no one may show Designated Material to an ex-employee of a Producing Party without first notifying the Producing Party and providing the Producing Party with an opportunity to object prior to such disclosure;

(b) Counsel of Record;

(c) Litigation Managers to whom disclosure is reasonably necessary for this litigation and who have signed the "Litigation Manager Acknowledgment and Agreement to Be Bound by Protective Order" attached as Exhibit C;

(d) Outside Consultants of the Receiving Party to whom disclosure is reasonably necessary for this litigation and who have signed the "Acknowledgment and Agreement To Be Bound By Protective Order" attached hereto as Exhibit A and the "Certification Of Outside Consultant" attached hereto as Exhibit B. Disclosure may be made to such Outside Consultants of the Receiving Party only pursuant to and after completion of the procedures set out in Section D below;

(e) witnesses of the Producing Party at deposition and/or trial, provided that such witnesses may not retain copies of Designated Material unless permitted by other provisions of this Order;

(f) this Court in the above-captioned civil actions; the U.S. District Court for the District of Delaware in *VLSI Technology LLC v. Intel Corp.*, No. 18-cv-000966-CFC (D. Del.); the U.S. District Court for the Northern District of California in *VLSI Technology LLC v. Intel Corp.*, No. 17-cv-05671-BLF (N.D. Cal.); and the court in

any appeal from any of the foregoing actions, in each case including such court's personnel;

(g) any designated arbitrator or mediator who is assigned to hear this matter, and his or her staff, who have signed the "Acknowledgment and Agreement To Be Bound By Protective Order" attached hereto as Exhibit A and the "Certification Of Outside Consultant" attached hereto as Exhibit B;

(h) court reporters; and

(i) Professional Vendors to which disclosure is reasonably necessary for this litigation and a representative of which has signed the "Acknowledgment and Agreement To Be Bound By Protective Order" attached hereto as Exhibit A.

17. **OUTSIDE COUNSEL EYES ONLY Material:** Unless otherwise ordered by the Court or permitted in writing by the Designating Party, a Receiving Party may disclose any information, documents, or things designated OUTSIDE COUNSEL EYES ONLY Material only to the following in addition to those identified in Paragraphs 45-46 below regarding use of Designated Material at depositions:

(a) persons who appear on the face of Designated Material as an author, addressee, or recipient thereof, provided, however, that no one may show Designated Material to an ex-employee of a Producing Party without first notifying the Producing Party and providing the Producing Party with an opportunity to object prior to such disclosure;

(b) Counsel of Record;

(c) Outside Consultants of the Receiving Party to whom disclosure is reasonably necessary for this litigation and who have signed the "Acknowledgment and Agreement To Be Bound By Protective Order" attached hereto as Exhibit A and the "Certification Of Outside Consultant" attached hereto as Exhibit B. Disclosure may be made to such Outside Consultants of the Receiving Party only pursuant to and after completion of the procedures set out in Section D below;

(d) this Court in the above-captioned civil actions; the U.S. District Court for the District of Delaware in *VLSI Technology LLC v. Intel Corp.*, No. 18-cv-000966-CFC (D. Del.); the U.S. District Court for the Northern District of California in *VLSI Technology LLC v. Intel Corp.*, No. 17-cv-05671-BLF (N.D. Cal.); and the court in any appeal from any of the foregoing actions, in each case including such court's personnel;

(e) any designated arbitrator or mediator who is assigned to hear this matter, and his or her staff, who have signed the "Acknowledgment and Agreement To Be Bound By Protective Order" attached hereto as Exhibit A and the "Certification Of Outside Consultant" attached hereto as Exhibit B;

(f) court reporters; and

(g) Professional Vendors to which disclosure is reasonably necessary for this litigation and a representative of which has signed the "Acknowledgment and Agreement To Be Bound By Protective Order" attached hereto as Exhibit A.

18. OUTSIDE COUNSEL EYES ONLY – SOURCE CODE Material:

Unless otherwise ordered by the Court or permitted in writing by the Designating Party, a Receiving Party may disclose any information, documents, or things designated OUTSIDE COUNSEL EYES ONLY – SOURCE CODE Material only to the following in addition to those identified in Paragraphs 45-46 below regarding use of Designated Material at depositions:

(a) persons who appear on the face of Designated Material as an author, addressee, or recipient thereof, provided, however, that no one may show Designated Material to an ex-employee of a Producing Party without first notifying the Producing Party and providing the Producing Party with an opportunity to object prior to such disclosure;

(b) Counsel of Record;

(c) Outside Consultants of the Receiving Party to whom disclosure is reasonably necessary for this litigation and who have signed the "Acknowledgment and Agreement To Be Bound By Protective Order" attached hereto as Exhibit A and the "Certification Of Outside Consultant" attached hereto as Exhibit B. Disclosure may be made to such Outside Consultants of the Receiving Party only pursuant to and after completion of the procedures set out in Section D below;

(d) this Court in the above-captioned civil actions; the U.S. District Court for the District of Delaware in *VLSI Technology LLC v. Intel Corp.*, No. 18-cv-000966-CFC (D. Del.); the U.S. District Court for the Northern District of California in *VLSI Technology LLC v. Intel Corp.*, No. 17-cv-05671-BLF (N.D. Cal.); and the court in any appeal from any of the foregoing actions, in each case including such court's personnel;

(e) any designated arbitrator or mediator who is assigned to hear this matter, and his or her staff, who have signed the "Acknowledgment and Agreement To Be Bound By Protective Order" attached hereto as Exhibit A and the "Certification Of Outside Consultant" attached hereto as Exhibit B; and

(f) court reporters.

19. OUTSIDE COUNSEL EYES ONLY – PROCESS RECIPE Material:

Unless otherwise ordered by the Court or permitted in writing by the Designating Party, a Receiving Party may disclose any information, documents, or things designated OUTSIDE COUNSEL EYES ONLY – PROCESS RECIPE Material only to the following in addition to those identified in Paragraph 45 below regarding use of Designated Material at depositions:

(a) persons who appear on the face of Designated Material as an author, addressee, or recipient thereof, provided, however, that no one may show Designated Material to an ex-employee of a Producing Party without first notifying the Producing

Party and providing the Producing Party with an opportunity to object prior to such disclosure;

(b) Counsel of Record;

(c) Outside Consultants of the Receiving Party to whom disclosure is reasonably necessary for this litigation and who have signed the "Acknowledgment and Agreement To Be Bound By Protective Order" attached hereto as Exhibit A and a "Certification Of Outside Process Recipe Consultant" that the parties shall attach hereto, if necessary, pursuant to any modification to this Order as contemplated in Paragraph 42. Disclosure may be made to such Outside Consultants of the Receiving Party only pursuant to and after completion of the procedures set out in Section D below;

(d) this Court in the above-captioned civil actions; the U.S. District Court for the District of Delaware in *VLSI Technology LLC v. Intel Corp.*, No. 18-cv-000966-CFC (D. Del.); the U.S. District Court for the Northern District of California in *VLSI Technology LLC v. Intel Corp.*, No. 17-cv-05671-BLF (N.D. Cal.); and the court in any appeal from any of the foregoing actions, in each case including such court's personnel;

(e) any designated arbitrator or mediator who is assigned to hear this matter, and his or her staff, who have signed the "Acknowledgment and Agreement To Be Bound By Protective Order" attached hereto as Exhibit A and a "Certification Of Outside Process Recipe Consultant" that the parties shall attach hereto, if necessary, pursuant to any modification to this Order as contemplated in Paragraph 42; and

(f) court reporters.

20. Each person to whom Designated Material may be disclosed, and who is required to sign the "Acknowledgment and Agreement To Be Bound By Protective Order" attached hereto as Exhibit A, or the "Certification Of Outside Consultant" attached hereto as Exhibit B (if applicable) or the "Litigation Manager Acknowledgment and Agreement to Be Bound by Protective Order" attached hereto as Exhibit C (if applicable) or a

"Certification Of Outside Process Recipe Consultant" that the parties shall attach hereto, if necessary, pursuant to any modification of this Order as contemplated in Paragraph 42 (if applicable), must do so prior to the time such Designated Material is disclosed to him or her. Counsel for a Party who makes any disclosure of Designated Material must retain each original executed certificate and, upon written request, must provide copies to counsel for all other Parties at the termination of this action.

21. At the request of the Designating Party, persons not permitted access to Designated Material under the terms of this Protective Order must not be present at depositions while the Designating Party's Designated Material is discussed or otherwise disclosed. Pre-trial and trial proceedings must be conducted in a manner, subject to the supervision of the Court, to protect Designated Material from disclosure to persons not authorized to have access to such Material.

D. Access By Outside Consultants

22. **Notice.** If a Receiving Party wishes to disclose another Party's Designated Material to any Outside Consultant, such Receiving Party must provide advance written notice by email to counsel for the Designating Party, which notice must include: (a) the individual's name and business title; (b) business address; (c) business or profession; (d) the individual's CV; (e) any previous, current or anticipated relationship (personal or professional) with any of the Parties (and/or their predecessors or successors in interest) or a Party's competitor (and/or their predecessors or successors in interest); (f) a list of other cases in which the individual has testified (at trial or deposition) within the last four years; (g) an identification of all companies with which the individual has consulted or by which the individual has been employed within the last four years;¹ and (h) a signed copy of (1)

¹ If the Outside Consultant believes any of this information is subject to a confidentiality obligation to a third-party, then the Outside Consultant should provide sufficient information for the Designating Party to determine whether it needs to object to the Outside Consultant. In all instances, the Outside Consultant may not omit entirely the existence of work that was performed pursuant to a confidentiality agreement. In addition,

the "Acknowledgment and Agreement To Be Bound By Protective Order" attached hereto as Exhibit A and (2) one or both of the "Certification Of Outside Consultant" attached hereto as Exhibit B and a "Certificate of Outside Process Recipe Consultant" that the parties shall attach hereto, if necessary, pursuant to any modification of this Order as contemplated in Paragraph 42 .

23. **Objections.** The Designating Party will have seven (7) business days from receipt of the notice specified in Paragraph 22 to object in writing to such disclosure. Any such objection must set forth in detail the grounds on which it is based. After the expiration of the 7-day period, if no objection has been asserted, then Designated Material may be disclosed to the Outside Consultant pursuant to the terms of this Order. However, if the Designating Party objects within the 7-day period, the Receiving Party may not disclose Designated Material to the challenged individual absent written resolution of the dispute or Court Order. In the event the Designating Party makes a timely objection, the Parties must meet and confer within three business days by telephone or in person to try to resolve the matter by agreement. If the Parties cannot reach an agreement, the objecting Party may within five (5) business days following the meet and confer move for a protective order preventing disclosure of Designated Material to the Outside Consultant or for other appropriate relief. If the objecting Party fails to move for protective order within the prescribed period, any objection to the Outside Consultant is waived, and Designated Material may thereafter be disclosed to such individual (upon signing the "Agreement To Be Bound By Protective Order" attached hereto as Exhibit A). If the objecting Party timely moves for a protective order, Designated Material must 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 objecting Party, whichever occurs first.

the Party seeking to disclose to the Outside Consultant shall be available to meet and confer with the Designating Party regarding any such engagement.

E. Production of OUTSIDE COUNSEL EYES ONLY – SOURCE CODE

Material

24. Unless otherwise agreed to in writing between the Producing Party and the Receiving Party, Source Code designated as "OUTSIDE COUNSEL EYES ONLY – SOURCE CODE" may only be provided on at least two stand-alone computers (that is, computers not connected to a network, the Internet, or any peripheral device, except that the stand-alone computers may be connected to a printer or printers and a monitor and will have a mouse connected, all other ports must be disabled) at a secure location, to be made available during regular business hours (9:00 a.m. to 6:00 p.m. local time) on weekdays on five (5) business days' notice, at Producing Party's counsel's offices in the United States ("Source Code Computers"). These Source Code Computers can be the same computers as provided for *VLSI Technology LLC v. Intel Corp.*, No. 18-cv-000966-CFC (D. Del.) and/or *VLSI Technology LLC v. Intel Corp.*, No. 17-cv-05671-BLF (N.D. Cal.). For Intel, the secure location will be the offices of WilmerHale in Los Angeles, California. The Receiving Party must identify in writing to the Producing Party the persons who will be conducting the inspection or will be present during the inspection no less than 48 hours in advance of any such inspection. Before being admitted into the secure location, an individual must provide a photo identification card issued by the United States federal government or the government of a state of the United States.

25. The Producing Party will produce Source Code designated as "OUTSIDE COUNSEL EYES ONLY – SOURCE CODE" in computer searchable format and in a file structure and format that mirrors the file structure and format of the Source Code as maintained by the Producing Party in the ordinary course of business, pursuant to the provisions of Paragraph 24 above, but need not produce in executable format absent further written agreement of the parties or order of the Court. The Producing Party may monitor any review of Source Code designated as "OUTSIDE COUNSEL EYES ONLY – SOURCE CODE", but only as is reasonable to ensure compliance with this Protective

Order and in a manner that will not interfere with the Receiving Party's confidential communications or otherwise invade the Receiving Party's attorney work product, and that will afford the Receiving Party adequate privacy to permit the development of appropriate work product. The Producing Party shall provide the Receiving Party with information explaining how to start, log on to, and operate the Source Code Computers in order to access the produced Source Code. In order to verify that its Source Code has not later been altered, the Producing Party may benchmark the materials to confirm that the materials have not been altered before and after they are provided but shall not install any keystroke or other monitoring software on the Source Code Computers. Each time a Producing Party makes Material available for review on the Source Code Computer, it shall promptly notify the Receiving Party of the same and provide a summary of the volume and nature of such newly available Material.

26. Except as otherwise provided herein, no copies of any portion of the Source Code may leave the secure location in which the Source Code is inspected. Further, except as provided herein, no written or electronic record of the Source Code is permitted. Notwithstanding the foregoing, the Receiving Party may request printed copies of specific portions of Source Code designated as "OUTSIDE COUNSEL EYES ONLY – SOURCE CODE." Within five (5) business days of the printing request, the Producing Party must either (i) provide five (5) paper copies of Source Code designated as "OUTSIDE COUNSEL EYES ONLY – SOURCE CODE" including Bates numbers and appropriate confidentiality labels when printed, along with a native Microsoft Excel file that lists the filepath and filename, as they appear on any stand-alone computers, of each requested file, correlated to the beginning Bates number of the corresponding print-out, or, alternatively, the Producing Party may brand printouts with the filepath and filename of each file, as it appears on any stand-alone computer; or (ii) object that a printing request is excessive and/or not done for a permitted purpose. The Producing Party must retain copies of any portions of Source Code printed and the Receiving Party is prohibited from removing the

copies from the secure location. The entire code or an unreasonably large portion of the code must not be requested. The Receiving Party is not entitled to request copies in order to review blocks of Source Code designated as "OUTSIDE COUNSEL EYES ONLY – SOURCE CODE" elsewhere in the first instance, i.e., as an alternative to reviewing the materials electronically on the stand-alone computers provided by the Producing Party, 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. Printouts of the Source Code that exceed 60 contiguous pages or 20% or more of a specific software release will be presumed excessive unless the Receiving Party provides a compelling justification that such printed portions are necessary. For example, if the requested portion of the source code comprises a complete code module that is directly relevant to the operation of the accused instrumentality, yet that requested portion exceeds the aforementioned page limits, such request may be deemed a compelling justification. If the Producing Party objects within three (3) business days of a printing request that the printing request is excessive and/or not done for a permitted purpose, the Producing Party and Receiving Party will meet and confer within three (3) business days of the Producing Party's objection. If the Producing Party and the Receiving Party cannot resolve the objection, the Receiving Party may, within three (3) business days after the meet and confer, seek the Court's resolution of whether the request is narrowly tailored for a permitted purpose. The burden will be on the Receiving Party to demonstrate that such portions are no more than is reasonably necessary for a permitted purpose, and not merely for the purpose of review and analysis in another location.

27. A Receiving Party of any paper copies of any Source Code designated as "OUTSIDE COUNSEL EYES ONLY – SOURCE CODE" must always keep the paper copies of the Source Code at the office of the Receiving Party's Outside Counsel of Record, and in a locked storage container at the office of the Receiving Party's Outside Counsel of Record when the paper copies of the Source Code are not in use. Outside

Consultants and experts are prohibited from keeping copy sets. The Receiving Party may not reproduce the paper copies of the Source Code, absent written agreement of the Producing Party. The Receiving Party must maintain a Source Code Access Log identifying, for each and every time any Source Code is viewed, accessed, or analyzed: (i) the name of each person who accessed the Source Code; (ii) the date of access; and (iii) the location of access. The Receiving Party must produce such log to the Producing Party within one month of final disposition of this action or, during this action, upon seven (7) business days' advance notice to Receiving Party only when the Producing Party has a good faith reasonable basis for believing that a violation of Paragraph 27 of this Protective Order has occurred and explains the basis for such belief in writing at the time of the request for the log. If a Party has in its possession any Source Code that is owned by a third party and subject to a claim of confidentiality or subject to any license restriction on its distribution or release, the Party possessing the third party Source Code will not be required to produce such code until such time as the third party has been notified by the Party of the anticipated production of such code and the third party has had an opportunity to object to such production and to seek a protective order from the Court concerning the same within fifteen (15) days of being notified of the anticipated production of such code.

28. Except as otherwise provided herein, no electronic devices, including but not limited to cellular phones, PDAs, cameras, and voice recorders will be permitted in the secure location. Laptops may be used during inspection of Source Code, provided any such use is consistent with this Protective Order (e.g., any camera or other non-permitted functionality will not be used). The Producing Party shall make reasonable efforts to provide the Receiving Party's reviewers with a "breakout room" that is separate from the room containing the Source Code Computers, where said Receiving Party reviewers may keep their cellular phones, etc., and have access to the internet. Whenever the Producing Party is unable to provide such a "breakout room," the reviewers will be permitted to keep their cellular phones and other personal electronics with them in the secure location so long

as these devices are powered down and kept in a closed container. The Receiving Party's source code reviewers will be entitled to take notes relating to the Source Code, but may not copy the Source Code into the notes. Such notes will be treated the same as original printouts.

29. A Receiving Party that wants to use any printouts of Source Code designated as "OUTSIDE COUNSEL EYES ONLY – SOURCE CODE" at a deposition must notify the Producing Party in writing at least five (5) calendar days before the date of the deposition about the specific pages the Receiving Party intends to actually use at the deposition by Bates production number, and the Producing Party will bring printed copies of those portions of the code to the deposition for use by the Receiving Party. Copies of Source Code designated as "OUTSIDE COUNSEL EYES ONLY – SOURCE CODE" that are marked as deposition exhibits must not be provided to the court reporter or attached to deposition transcripts; rather the deposition record will identify such an exhibit by its production numbers. All printouts of Source Code designated as "OUTSIDE COUNSEL EYES ONLY – SOURCE CODE" brought to a deposition must be collected by the Producing Party at the conclusion of the deposition. In addition (or as an alternative to the use of printouts at a deposition), the Producing Party shall, on request, make a copy of the Source Code available on a single stand-alone computer (but otherwise in the same format in which the source code is available under Paragraph 25 above) during depositions of witnesses who would otherwise be permitted access to such Source Code. The Receiving Party shall make such requests at least ten (10) calendar days before the deposition. The Producing Party shall make reasonable efforts to comply with such a request made less than ten (10) calendar days before a deposition, provided the request is made in good faith and could not reasonably under the circumstances have been made sooner. Any deposition at which a copy of the Source Code is made available on a single stand alone computer shall occur at a city or metropolitan area mutually agreed upon by the parties. Location

within the city or metropolitan area can be selected by the Producing Party for the purpose of efficiently setting up the stand alone computer.

30. 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 Source Code designated as "OUTSIDE COUNSEL EYES ONLY – SOURCE CODE" from any paper copy of the Source Code for use in any manner (including, by way of example only, the Receiving Party may not scan Source Code designated as "OUTSIDE COUNSEL EYES ONLY – SOURCE CODE" to a PDF or photograph the code). Paper copies of the Source Code designated as "OUTSIDE COUNSEL EYES ONLY – SOURCE CODE" also may not be converted by the Receiving Party into an electronic document, and may not be scanned using optical character recognition ("OCR") technology. The exception to this restriction is for the Receiving Party's expert reports, including any rebuttal reports, and for filings with the Court (subject to the limitations below). To the extent it is necessary to reference Source Code in an expert report or other discovery document, the excerpts must be limited to the minimum amount necessary to support the specific argument made, but in no event may an excerpt exceed 25 contiguous lines of code. Longer excerpts shall not be copied for use in an expert report or other discovery document but shall be referred to by citations to Bates Numbers and/or file names numbers and line numbers on the Source Code Computer. Furthermore, in order to safeguard the Producing Party's Source Code that may be replicated in an expert report, the parties agree that any copies of such reports that include any portion of the Producing Party's Source Code may not be transmitted electronically, but must be served by hand delivery. For avoidance of doubt, copies of such reports where any Source Code has been redacted or removed may be transmitted electronically subject, however, to the other provisions herein. Images or copies of Source Code designated as "OUTSIDE COUNSEL EYES ONLY – SOURCE CODE" must not be included in correspondence between the parties (references to production numbers must be used

instead), and must be omitted from pleadings and other papers whenever possible. If the Receiving Party reasonably believes that it needs to submit a portion of Source Code designated as "OUTSIDE COUNSEL EYES ONLY – SOURCE CODE" as part of a filing with the Court, the parties must meet and confer as to how to make such a filing while protecting the confidentiality of the Source Code. If the parties are unable to reach agreement at the meet and confer about how such filing shall be made, the Receiving Party agrees that it must observe the following minimum protections in making the filing: (i) the Receiving Party will rely on expert declarations or other means to describe the relevant feature or functionality of the Source Code (including by identifying the corresponding production number(s) and line number(s) of the referenced Source Code), rather than copying portions of the Source Code into a filing, to the extent possible; (ii) if any portion of Source Code is included in a filing, the Receiving Party will copy the minimal amount of Source Code that is necessary for purposes of that filing; (iii) the filing will be made only under seal, and all confidential information concerning the Source Code must be redacted or removed in any public versions of the filed documents; and (iv) the Receiving Party's communication and/or disclosure of electronic files or other materials containing any portion of Source Code in connection with a filing must at all times be limited solely to individuals who are expressly authorized to view 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 27.

31. The Receiving Party may request that commercially available software tools for viewing and searching Source Code designated as "OUTSIDE COUNSEL EYES ONLY – SOURCE CODE" be installed on the Source Code Computers, provided that such tools are reasonably necessary for the Receiving Party to perform its review of the Source Code consistent with the protections herein. Specific tools may include, but are not limited to, Understand, Notepad++, Beyond Compare, XCode tools, Slick Edit, Source-Navigator, PowerGrep, ExamDiffPro, Sigasi, UltraEdit, Graphviz, Eclipse, Cygwin, or other similar

programs, schematic editors used for reviewing circuit schematics, such as LTSpice, and software programs that may be necessary to review RTL, HDL, and similar-type files. Other mutually agreed upon tools may be used. The Producing Party must attempt to install licensed copies of mutually agreed upon tools on the Source Code Computers, and any license or subscription fees will be paid for by the Receiving Party. If the Producing Party's good faith attempt to install additional software is successful on one of the Source Code Computers, the second stand-alone computer will be similarly updated within three (3) business days. The Receiving Party must provide the Producing Party with such licensed software tools at least five (5) business days before the date on which the Receiving Party wishes to have the additional software tools available for use on the Source Code Computer. If a mutually agreed upon software tool is available at no cost from an easily accessible and publicly available source, the Receiving Party must identify where the Producing Party may obtain the tool at least five (5) business days before the date on which it wishes to have the additional tool and the mutually agreed upon tool will be installed on the Source Code Computer by the Providing Party. Unless otherwise agreed in writing by the parties, the Receiving Party must not at any time use any compilers, interpreters or simulators in connection with the Producing Party's Source Code designated as "OUTSIDE COUNSEL EYES ONLY – SOURCE CODE." The parties agree to meet and confer on any further specific format for reviewing the Source Code designated as "OUTSIDE COUNSEL EYES ONLY – SOURCE CODE," including any additional tools that may be requested. Except as otherwise provided herein or agreed in writing by the parties, in no event may tools be installed on the Source Code Computer that have the effect of altering, modifying, deleting, copying, or otherwise permitting the reproduction or removal of any Source Code.

F. Production of OUTSIDE COUNSEL EYES ONLY – PROCESS RECIPE**Material**

32. Intel states that it treats Process Recipe Material in a manner that is at least as protective as Source Code. Unless otherwise agreed to in writing between the Producing Party and the Receiving Party, Process Recipes designated as "OUTSIDE COUNSEL EYES ONLY – PROCESS RECIPE" may only be provided on at least one stand-alone computer (that is, a computer not connected to a network, the Internet, or any peripheral device, except that the stand-alone computer may be connected to a printer or printers and a monitor and will have a mouse connected, all other ports disabled) at a secure location, to be made available during regular business hours (9:00 a.m. to 6:00 p.m. local time) on weekdays on five (5) business days' notice, at Producing Party's counsel's offices in the United States ("Process Recipe Computer"). The Process Recipe Computer must be distinct from any Source Code Computers, but can be the same computer as a Process Recipe Computer provided for *VLSI Technology LLC v. Intel Corp.*, No. 18-cv-000966-CFC (D. Del.) and/or *VLSI Technology LLC v. Intel Corp.*, No. 17-cv-05671-BLF (N.D. Cal.). For Intel, the secure location will be the offices of WilmerHale in Los Angeles, California. At the option of the Producing Party, the secure location provided for review of "OUTSIDE COUNSEL EYES ONLY – PROCESS RECIPE" Material may be physically separate from the secure location provided for review of "OUTSIDE COUNSEL EYES ONLY – SOURCE CODE" Material. If the Producing Party makes the Process Recipe Computer available in the same secure location as the Source Code Computers, any laptop used pursuant to Paragraph 28 to take notes during the review of the Source Code Computers must not be used when reviewing the Process Recipe Computer. If the Producing Party makes the Process Recipe Computer available in the same secure location as the Source Code Computers, individuals who access only the Source Code Computers will not be deemed to have received "OUTSIDE COUNSEL EYES ONLY – PROCESS RECIPE" Material. The Receiving Party must identify in

writing to the Producing Party the persons who will be conducting the inspection or will be present during the inspection no less than 48 hours in advance of any such inspection. Before being admitted into the secure location, an individual must provide a photo identification card issued by the United States federal government or the government of a state of the United States.

33. The Producing Party will produce Process Recipes designated as "OUTSIDE COUNSEL EYES ONLY – PROCESS RECIPE" in computer searchable format. The Producing Party may monitor any review of Process Recipes designated as "OUTSIDE COUNSEL EYES ONLY – PROCESS RECIPE", but only as is reasonable to ensure compliance with this Protective Order and in a manner that will not interfere with the Receiving Party's confidential communications or otherwise invade the Receiving Party's attorney work product, and that will afford the Receiving Party adequate privacy to permit the development of appropriate work product. The Producing Party shall provide the Receiving Party with information explaining how to start, log on to, and operate the Process Recipe Computer in order to access the produced Process Recipes. In order to verify that its Process Recipes have not later been altered, the Producing Party may benchmark the materials to confirm that the materials have not been altered before and after they are provided but shall not install any keystroke or other monitoring software on any stand-alone computers. Each time a Producing Party makes Material available for review on the Process Recipe Computer, it shall promptly notify the Receiving Party of the same and provide a summary of the volume and nature of such newly available Material.

34. Except as otherwise provided herein, no copies of any portion of the Process Recipes may leave the secure location in which the Process Recipes are inspected. Further, except as provided herein, no written or electronic record of the Process Recipes is permitted. Notwithstanding the foregoing, the Receiving Party may request printed copies of specific portions of Process Recipes designated as "OUTSIDE COUNSEL EYES ONLY – PROCESS RECIPES." Within five (5) business days of the printing request, the

Producing Party must either (i) provide two (2) paper color copies of Process Recipes designated as "OUTSIDE COUNSEL EYES ONLY – PROCESS RECIPES" including Bates numbers and appropriate confidentiality labels when printed, as they appear on any Process Recipe Computers, of each requested file, correlated to the beginning Bates number of the corresponding print-out, or, alternatively, the Producing Party may brand printouts with the filepath and filename of each file, as it appears on any stand-alone computer; or (ii) object that a printing request is excessive and/or not done for a permitted purpose. Paper copies are restricted to what is necessary for use in preparing a filing, an expert report, a deposition, or a hearing. A Receiving Party must not print passages to facilitate review of the paper copies of Process Recipes designated as "OUTSIDE COUNSEL EYES ONLY – PROCESS RECIPES" away from the secure location; Process Recipes are to be reviewed and analyzed using the Process Recipe Computer. The Receiving Party is prohibited from removing the paper copies of Process Recipes designated "OUTSIDE COUNSEL EYES ONLY – PROCESS RECIPES" from their secure location. If the Producing Party objects within three (3) business days of a printing request that the printing request is excessive and/or not done for a permitted purpose, the Producing Party and Receiving Party will meet and confer within three (3) business days of the Producing Party's objection. If the Producing Party and the Receiving Party cannot resolve the objection, the Receiving Party may, within three (3) business days after the meet and confer, seek the Court's resolution of whether the request is narrowly tailored for a permitted purpose. The burden will be on the Receiving Party to demonstrate that such portions are no more than is reasonably necessary for a permitted purpose, and not merely for the purpose of review and analysis in another location.

35. A Receiving Party of any paper copies of any Process Recipes designated as "OUTSIDE COUNSEL EYES ONLY – PROCESS RECIPES" must always keep the paper copies of the Process Recipes at the office of the Receiving Party's Outside Counsel of Record, and in a locked storage container at the office of the Receiving Party's Outside

Counsel of Record when the paper copies of the Process Recipes are not in use. Outside Consultants and experts are prohibited from keeping copy sets. The Receiving Party may not reproduce the paper copies of the Process Recipes, absent written agreement of the Producing Party. The Receiving Party must maintain a Process Recipes Access Log identifying, for each and every time any Process Recipe is viewed, accessed, or analyzed: (i) the name of each person who accessed the Process Recipes; (ii) the date of access; and (iii) the location of access. The Receiving Party must produce such log to the Producing Party within one month of final disposition of this action or, during this action, upon seven (7) business days' advance notice to Receiving Party only when the Producing Party has a good faith reasonable basis for believing that a violation of Paragraph 35 of this Protective Order has occurred and explains the basis for such belief in writing at the time of the request for the log. If a Party has in its possession any Process Recipes owned by a third party and subject to a claim of confidentiality or subject to any license restriction on its distribution or release, the Party possessing the third party Process Recipes will not be required to produce such Process Recipes until such time as the third party has been notified by the Party of the anticipated production of such code and the third party has had an opportunity to object to such production and to seek a protective order from the Court concerning the same within fifteen (15) days of being notified of the anticipated production of such code.

36. No electronic devices, including but not limited to laptops, hard drives, thumb drives, mass-storage devices, floppy drives, zip drives, cellular phones, PDAs, cameras, and voice recorders will be permitted in the secure location with the Process Recipe Computer, except as provided in Paragraphs 32 and 37. Non-electronic devices capable of similar functionality are also prohibited, as is loose paper that could be used in a printer. Written notes relating to the Process Recipes may be taken only in spiral- or permanently-bound notebooks or on the provided Process Recipe Notetaking Computer described in Paragraph 37.

37. In addition to the secure computers used for "OUTSIDE COUNSEL EYES ONLY – PROCESS RECIPE" Material, the Producing Party shall make available in the secure location with such Process Recipe Computer a reasonably modern laptop computer with no network connection or camera functionality (the "Process Recipe Notetaking Computer") for purposes of enabling the Receiving Party's Counsel of Record and/or Outside Consultants to take notes relating to the Process Recipes. This can be the same Process Recipe Notetaking Computer as provided in *VLSI Technology LLC v. Intel Corp.*, No. 18-cv-000966-CFC (D. Del.) and/or *VLSI Technology LLC v. Intel Corp.*, No. 17-cv-05671-BLF (N.D. Cal.). The Process Recipe Notetaking Computer shall have pre-installed a commercially reasonable text editing program, Microsoft Excel or OpenOffice Calc spreadsheet software, and an encryption program which uses AES-256 encryption. The Receiving Party's Counsel of Record and/or Outside Consultants may use the computer for the purposes of taking notes relating to the Process Recipes. The Reviewing Party shall, upon completion of its review, store its notes within an encrypted volume using AES-256 encryption, protected by at least a 20-character password. Upon completion of each review session, the Producing Party shall, upon request by the Receiving Party, provide the Receiving Party with an electronic storage medium, such as a USB storage device, containing the encrypted volume file with the notes taken by the Receiving Party. At the start of each review session, the Producing Party also shall, upon request by the Receiving Party, copy an updated encrypted volume file containing any revised notes taken by the Receiving Party, from such electronic storage medium onto the Process Recipe Notetaking Computer, for further editing. The Receiving Party shall maintain any notes removed from the secure location in the encrypted form described above at all times when storing or transmitting them. The Receiving Party will move the USB storage device only by hand and shall not copy the materials from the USB storage device onto a computer network or onto a computer that is connected to a computer network. These materials will be deleted from any computer prior to connecting that

computer to a computer network. The USB storage device may be connected to a computer that is connected to a computer network only if that computer network is a non-public network with reasonable security measures (for example, a non-encrypted WiFi network would not be permitted, while an encrypted WiFi network with firewall and/or antivirus monitoring would be permitted) and if no materials from the USB storage device are copied off of the storage device. The Producing Party shall not monitor or review any notes taken on the Process Recipe Notetaking Computer, shall not receive the encryption password, and shall not interact with any note files on the computer in any way except to transfer the encrypted volume files, without reviewing their contents, to and from a USB storage medium as described above. The use of such computer shall not be asserted to be a waiver of any privilege or protection. The Producing Party will make reasonable efforts to provide the Receiving Party's Process Recipe reviewers with a "breakout room" that is separate from the room containing the stand-alone computer, where said Receiving Party Process Recipe reviewers may keep their cellular phones, etc., and have access to the internet. Whenever the Producing Party is unable to provide such a "breakout room," the reviewers will be permitted to keep their cellular phones and other personal electronics with them in the secure location so long as these devices are powered down and kept in a closed container. The Receiving Party's Process Recipes reviewers will be entitled to take notes relating to the Process Recipes, but may not copy the Process Recipes into the notes. Such notes will be treated the same as original printouts.

38. A Receiving Party that wants to use any printouts of Process Recipes designated as "OUTSIDE COUNSEL EYES ONLY – PROCESS RECIPE" at a deposition must notify the Producing Party in writing at least five (5) calendar days before the date of the deposition about the specific pages the Receiving Party intends to actually use at the deposition by Bates production number, and the Producing Party will bring printed color copies of those portions of the Process Recipes to the deposition for use by the Receiving Party. Copies of Process Recipes designated as "OUTSIDE COUNSEL EYES ONLY –

PROCESS RECIPES" that are marked as deposition exhibits must not be provided to the court reporter or attached to deposition transcripts; rather the deposition record will identify such an exhibit by its production numbers. All printouts of Process Recipes designated as "OUTSIDE COUNSEL EYES ONLY – PROCESS RECIPES" brought to a deposition must be collected by the Producing Party at the conclusion of the deposition. In addition (or as an alternative to the use of printouts at a deposition), the Producing Party shall, on request, make a copy of the Process Recipes available on a single stand-alone computer (but otherwise in the same format in which the Process Recipes are available under Paragraph 33 above) during depositions of witnesses who would otherwise be permitted access to such Process Recipes. The Receiving Party shall make such requests at least ten (10) calendar days before the deposition. The Producing Party shall make reasonable efforts to comply with such a request made less than ten (10) calendar days before a deposition, provided the request is made in good faith and could not reasonably under the circumstances have been made sooner. Any deposition at which a copy of the Process Recipes is made available on a single stand alone computer shall occur at a city or metropolitan area mutually agreed upon by the parties. Location within the city or metropolitan area can be selected by the Producing Party for the purpose of efficiently setting up the stand alone computer.

39. 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, Process Recipes designated as "OUTSIDE COUNSEL EYES ONLY – PROCESS RECIPES" from any paper copy Process Recipes for use in any manner (including, by way of example only, the Receiving Party may not scan Process Recipes designated as "OUTSIDE COUNSEL EYES ONLY – PROCESS RECIPES" to a PDF or photograph the Process Recipes). Paper copies of the Process Recipes designated as "OUTSIDE COUNSEL EYES ONLY – PROCESS RECIPES" also may not be converted by the Receiving Party into an electronic document, and may not be scanned

using optical character recognition ("OCR") technology. The exception to this restriction is for the Receiving Party's expert reports, including any rebuttal reports, and for filings with the Court (subject to the limitations below). To the extent it is necessary to reference Process Recipes in an expert report or other discovery document, the excerpts must be limited to the minimum amount necessary to support the specific argument made, but in no event may an excerpt exceed 25 contiguous lines of a process recipe document. Longer excerpts shall not be copied for use in an expert report or other discovery document but shall be referred to by citations to Bates Numbers and/or file names and page numbers or row and column numbers on the Process Recipe Computer. Furthermore, in order to safeguard the Producing Party's Process Recipes that may be replicated in an expert report, the parties agree that any copies reports that include any portion of the Producing Party's Process Recipes may not be transmitted electronically, but must be served by hand delivery. For avoidance of doubt, copies of such reports where any Process Recipes has been redacted or removed may be transmitted electronically subject, however, to the other provisions herein. Images or copies of Process Recipes designated as "OUTSIDE COUNSEL EYES ONLY – PROCESS RECIPE" must not be included in correspondence between the parties (references to production numbers must be used instead), and must be omitted from pleadings and other papers whenever possible. If the Receiving Party reasonably believes that it needs to submit a portion of Process Recipes designated as "OUTSIDE COUNSEL EYES ONLY – PROCESS RECIPES" as part of a filing with the Court, the parties must meet and confer as to how to make such a filing while protecting the confidentiality of the Process Recipes. If the parties are unable to reach agreement at the meet and confer about how such filing shall be made, the Receiving Party agrees that it must observe the following minimum protections in making the filing: (i) the Receiving Party will rely on expert declarations or other means to describe the relevant feature or functionality of the Process Recipes (including by identifying the corresponding production number(s) and/or file names and page numbers or row and column numbers of

the referenced Process Recipes), rather than copying portions of the Process Recipes into a filing, to the extent possible; (ii) if any portion of Process Recipes is included in a filing, the Receiving Party will copy the minimal amount of Process Recipes that is necessary for purposes of that filing; (iii) the filing will be made only under seal, and all confidential information concerning the Process Recipes must be redacted or removed in any public versions of the filed documents; and (iv) the Receiving Party's communication and/or disclosure of electronic files or other materials containing any portion of Process Recipes in connection with a filing must at all times be limited solely to individuals who are expressly authorized to view Process Recipes 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 35.

G. Financial Summaries

40. In satisfaction of its discovery obligations or otherwise, Intel may generate certain financial summaries for the purpose of this litigation. Intel may produce such financial summaries in native form (i.e., Excel, CSV, or similar database or delimited form). The original and any copies of such financial summaries must at all times be stored in an encrypted container using 256-bit Advanced Encryption Standard (AES-256) encryption and having a passphrase of at least 20 characters in length. Absent Intel's written permission, such financial summaries shall not be transmitted over the Internet.

H. Prosecution Bar

41. A Producing Party may designate and label Material as "SUBJECT TO PROSECUTION BAR" if (i) it is also appropriately labeled "OUTSIDE COUNSEL EYES ONLY" or "OUTSIDE COUNSEL EYES ONLY – SOURCE CODE" or "OUTSIDE COUNSEL EYES ONLY – PROCESS RECIPES" and (ii) it discloses confidential technical information. Unless otherwise agreed to in writing by the Producing Party, any individual (including, but not limited to, experts, consultants, or attorneys) who personally receives any Material designated "SUBJECT TO PROSECUTION BAR" and labeled as

such at the time of receipt must not be involved in the prosecution of patents or patent applications before any foreign or domestic agency, including the United States Patent and Trademark Office, specifically directed to controlling clock speed in microprocessor systems; prioritization of interrupt processing in microprocessor systems; testing, storing, or providing operating voltages to memories or processors in microprocessor systems; write-assist techniques for static random access memory ("SRAM") arrays; reducing power consumption by dynamically adjusting the size of a memory cache; interconnects for processor, chipset, and I/O bridge components; on-chip voltage regulators; or power-on reset technology from the time of receipt of such Material through one (1) year after final and non-appealable termination of this litigation. Notwithstanding the foregoing, if an individual has not had access to Material designated "SUBJECT TO PROSECUTION BAR" for one (1) year and the individual is no longer performing work for the Producing Party or the Receiving Party, the individual is no longer subject to the prosecution bar. For purposes of this paragraph, "prosecution" means directly or indirectly drafting, amending, or advising on the drafting or amending of claims in connection with original prosecution, reissue, reexamination, *inter partes* review proceedings, or other domestic or foreign post-grant review proceedings. Notwithstanding the foregoing, the Receiving Party's Outside Counsel of Record that is permitted to receive and does receive Material designated "SUBJECT TO PROSECUTION BAR" may be involved in domestic or foreign post-grant patent prosecution (e.g., *inter partes* review, reexamination, nullity proceedings, etc.) provided, however, such counsel is prohibited from directly or indirectly drafting, amending, or advising on the drafting or amending of claims in connection with such post-grant patent prosecution. To avoid any doubt, "prosecution" as used in this paragraph does not include representing a party challenging a patent before a domestic or foreign agency (including, but not limited to, a reissue protest, ex parte reexamination or *inter partes* review).

I. Development Bar

42. The parties do not currently anticipate the production of OUTSIDE COUNSEL EYES ONLY – PROCESS RECIPE Material in this action. If such Material is produced, the parties will jointly move for modification of this Order to provide for a Development Bar applicable to Outside Consultants who personally receive that Material.

J. Use of Designated Material

43. **Use Of Designated Material By Receiving Party.** Unless otherwise ordered by the Court or agreed to in writing by the Designating Party, Designated Material and all information derived therefrom may be used by the Receiving Party only for purposes of (1) the above-captioned civil actions and any appeals therefrom; (2) *VLSI Technology LLC v. Intel Corp.*, No. 18-cv-966-CFC (D. Del) and any appeals therefrom; and (3) *VLSI Technology LLC v. Intel Corp.*, No. 17-cv-05671-BLF (N.D. Cal.) and any appeals therefrom (except with respect to Designated Material in deposition transcripts, for which any potential cross-use under subparts (2) and (3) will be addressed on an as-requested basis), and must not be used in any other way whatsoever. The Parties will negotiate in good faith regarding any requested cross-use of specific Designated Material in deposition transcripts under subparts (2) and (3) above, and the Receiving Party may move this Court to seek permission for such requested cross-use if the Parties are unable to reach agreement, which motion the Producing Party may oppose. Information contained or reflected in Designated Material must not be disclosed in conversations, presentations (by Parties, Counsel of Record, Professional Vendors, Outside Consultants, or otherwise), in court, or in other settings that might reveal Designated Material, except in accordance with the terms of this Order.

44. **Use Of Designated Material By Designating Party.** Nothing in this Order limits any Designating Party's use of its own documents and information, nor prevents the Designating Party from disclosing its own confidential information, documents, or things to any person. Such disclosure does not affect any designations made pursuant to the

terms of this Order, so long as the disclosure is made in a manner that is reasonably calculated to maintain the confidentiality of the information.

45. **Use Of Designated Material at Depositions.** Except as may be otherwise ordered by the Court, any person may be examined as a witness at depositions and trial and may testify concerning all Designated Material of which that person has prior knowledge. In addition:

(a) a present director, officer, employee, designated Rule 30(b)(6) witness, and/or Outside Consultant of a Producing Party may be examined and may testify concerning all Designated Material that has been produced by that Party.

(b) a former director, officer, agent, and/or employee of a Producing Party may be interviewed, may be examined, and may testify concerning all Designated Material of which he or she has prior knowledge, including any Designated Material that refers to matters of which the witness has personal knowledge that has been produced by that Party and that pertains to the period or periods of his or her prior employment with the Party; and

(c) non-parties may be examined or testify concerning any document containing Designated Material of a Producing Party that appears on its face or from other documents or testimony to have been received from or communicated to the non-party as a result of any contact or relationship with the Producing Party, or a representative of such Producing Party. Any person other than the witness, his or her attorney(s), and any person qualified to receive Designated Material under this Order must be excluded from the portion of the examination concerning such information, unless the Producing Party consents to persons other than qualified recipients being present at the examination. If the witness is represented by an attorney who is not qualified under this Order to receive such information, then prior to the examination, the attorney must be requested to execute the "Acknowledgment and Agreement To Be Bound By Protective Order" attached hereto as Exhibit A, which requires the attorney to maintain the confidentiality of Designated

Material disclosed during the course of the examination. In the event that such attorney declines to sign such an agreement, such attorney cannot be shown Designated Material and cannot be present during questioning relating to the Designated Material.

46. A witness who previously had access to a document designated "CONFIDENTIAL", "OUTSIDE COUNSEL EYES ONLY" or "OUTSIDE COUNSEL EYES ONLY – SOURCE CODE" but who is not under a present non-disclosure agreement with the Producing Party that covers that document, may be shown the document if the witness is advised on the record of the existence of the Protective Order and that the Protective Order requires the Parties to keep confidential any questions, testimony, or documents that are designated as "CONFIDENTIAL", "OUTSIDE COUNSEL EYES ONLY", or "OUTSIDE COUNSEL EYES ONLY – SOURCE CODE." The witness may not copy, take notes on, or retain copies of any Designated Material used or reviewed at the deposition. The witness may not take out of the deposition room any exhibit that is marked "CONFIDENTIAL", "OUTSIDE COUNSEL EYES ONLY" or "OUTSIDE COUNSEL EYES ONLY – SOURCE CODE." The Producing Party of any Designated Material used at the deposition may also require that the transcript and exhibits not be copied by the witness or his counsel, that no notes may be made of the transcript or the exhibits, and that the transcript and exhibits may only be reviewed by the witness in the offices of one of the counsel representing a Party in this case (or in the offices of another firm acting for one of the counsel representing a Party in this case and under the supervision of one of the attorneys who is bound by the terms of this Order).

K. Procedure for Designating Material

47. Subject to the limitations set forth in this Order, a Designating Party may designate as "CONFIDENTIAL" information the Designating Party believes in good faith meets the definition set forth in Paragraph 3, above. A Designating Party may designate as "OUTSIDE COUNSEL EYES ONLY" information the Designating Party believes in good faith meets the definition set forth in Paragraph 4, above. A Designating Party may

designate as "OUTSIDE COUNSEL EYES ONLY – SOURCE CODE" information the Designating Party believes in good faith meets the definition set forth in Paragraph 5, above. A Designating Party may designate as "OUTSIDE COUNSEL EYES ONLY – PROCESS RECIPE" information the Designating Party believes in good faith meets the definition set forth in Paragraph 6, above. A Designating Party may designate as "SUBJECT TO PROSECUTION BAR" information the Designating Party believes in good faith meets the definition set forth in Paragraph 41, above. For the sake of clarity, a Designating Party's non-privileged legal theories standing alone are not properly designated as that Party's CONFIDENTIAL, OUTSIDE COUNSEL EYES ONLY, OUTSIDE COUNSEL EYES ONLY – SOURCE CODE, or OUTSIDE COUNSEL EYES ONLY – PROCESS RECIPE. Material that contains a Party's information otherwise properly designated as CONFIDENTIAL, OUTSIDE COUNSEL EYES ONLY, OUTSIDE COUNSEL EYES ONLY – SOURCE CODE, or OUTSIDE COUNSEL EYES ONLY – PROCESS RECIPE is properly designated as such even if it also contains the Designating Party's non-privileged legal theories.

48. Except as provided above in Section E with respect to "OUTSIDE COUNSEL EYES ONLY – SOURCE CODE" and Section F with respect to "OUTSIDE COUNSEL EYES ONLY – PROCESS RECIPE", any Material (including physical objects) made available by a Producing Party for initial inspection by counsel for the Receiving Party prior to producing copies of selected items will be subject to this Order and must initially be considered, as a whole, to constitute "OUTSIDE COUNSEL EYES ONLY". The Producing Party will have ten (10) calendar days from the inspection to review and designate the appropriate documents as "CONFIDENTIAL" or "OUTSIDE COUNSEL EYES ONLY" prior to furnishing copies to the Receiving Party.

49. Except as otherwise provided in this Order or as otherwise stipulated or ordered, Material that qualifies for protection under this Order must be designated in accordance with this Section K before the Material is disclosed or produced.

50. Designation in conformity with this Order requires:

(a) For information in documentary form (apart from transcripts of depositions or other pretrial or trial proceedings), the Producing Party must, for each document that contains Designated Material, affix the label "CONFIDENTIAL", "OUTSIDE COUNSEL EYES ONLY", "OUTSIDE COUNSEL EYES ONLY – SOURCE CODE" or "OUTSIDE COUNSEL EYES ONLY – PROCESS RECIPE" and, if appropriate, "SUBJECT TO PROSECUTION BAR", on each page of the document.

(b) For testimony given in deposition or in other pretrial or trial proceedings, the Designating Party must specify any portions of the testimony that it wishes to designate as "CONFIDENTIAL", "OUTSIDE COUNSEL EYES ONLY", "OUTSIDE COUNSEL EYES ONLY – SOURCE CODE" or "OUTSIDE COUNSEL EYES ONLY – PROCESS RECIPE" and, if appropriate, "SUBJECT TO PROSECUTION BAR". In the case of depositions, the Designating Party may also designate any portion of a deposition transcript as "CONFIDENTIAL", "OUTSIDE COUNSEL EYES ONLY," "OUTSIDE COUNSEL EYES ONLY – SOURCE CODE," "OUTSIDE COUNSEL EYES ONLY – PROCESS RECIPE," and, if appropriate, "SUBJECT TO PROSECUTION BAR", by informing the reporter and the opposing party in writing within thirty (30) calendar days of receipt of the deposition transcript of the designations to be applied. All deposition transcripts not marked during the deposition will nonetheless be treated as "OUTSIDE COUNSEL EYES ONLY" until the thirty (30) day period has expired. The entire transcript of a deposition at which "OUTSIDE COUNSEL ONLY – SOURCE CODE" or "OUTSIDE COUNSEL EYES ONLY – PROCESS RECIPE" Material was disclosed will be treated as "OUTSIDE COUNSEL EYES ONLY – SOURCE CODE" or "OUTSIDE COUNSEL EYES ONLY – PROCESS RECIPE" until the thirty-day period has expired. Transcript pages containing Designated Material must be separately bound by the court reporter, who must affix to the top of each such page the legend "CONFIDENTIAL", "OUTSIDE COUNSEL EYES ONLY" or "OUTSIDE COUNSEL

EYES ONLY – SOURCE CODE", or "OUTSIDE COUNSEL EYES ONLY – PROCESS RECIPE" as instructed by the Designating Party. Subject to the Court's preferences, the parties will work together to make arrangements for making such designations to exhibits, testimony, and other Material used during hearings, pre-trial proceedings, and during the trial of this case.

(c) For information produced in a form other than documentary, and for any other tangible items, the Producing Party must affix in a prominent place on the exterior of the container or containers in which the information or thing is stored the label "CONFIDENTIAL", "OUTSIDE COUNSEL EYES ONLY", "OUTSIDE COUNSEL EYES ONLY – SOURCE CODE" or "OUTSIDE COUNSEL EYES ONLY – PROCESS RECIPE" and, if appropriate, "SUBJECT TO PROSECUTION BAR".

L. No Waiver of Privilege

51. The production or disclosure of documents or information subject to the attorney-client privilege, work product immunity or any other applicable privilege will not constitute a waiver of, nor a prejudice to, any claim that such or related material is privileged, or protected by the work product immunity or any other applicable privilege, provided that the Producing Party notifies the Receiving Party in writing after discovery of such production or disclosure. The Parties agree that absent compelling evidence to the contrary, the Parties have taken reasonable steps to prevent disclosure; therefore, if privileged documents are disclosed, the disclosure will be deemed inadvertent. Such produced or disclosed documents or information, including all copies thereof distributed to others (e.g., experts, consultants, vendors) must be returned to the Producing Party immediately upon request, and the Receiving Party must immediately destroy any notes or other writing or recordings that summarize, reflect, or discuss the specific content of such privileged documents. No use may be made of such documents or information, including at deposition or at trial, nor may such documents or information be shown to anyone who has not already been given access to them subsequent to the request that they be

returned. The Receiving Party may move the Court for an Order compelling production of any such produced or disclosed document or information, but the motion may not assert as a ground for production the fact of the production or disclosure, nor may the motion disclose specific content or otherwise use the specific content of the produced document or information in any way in connection with any such motion.

M. Failure to Designate

52. A failure to designate qualified information, documents, or things as "CONFIDENTIAL", "OUTSIDE COUNSEL EYES ONLY", "OUTSIDE COUNSEL EYES ONLY – SOURCE CODE", "OUTSIDE COUNSEL EYES ONLY – PROCESS RECIPE", or "SUBJECT TO PROSECUTION BAR" does not, standing alone, waive the Designating Party's right to secure protection under this Order for such Material. Upon discovery of an inadvertent failure to designate, a Producing Party may notify the Receiving Party in writing that the Material is to be designated as "CONFIDENTIAL", "OUTSIDE COUNSEL EYES ONLY", "OUTSIDE COUNSEL EYES ONLY – SOURCE CODE", "OUTSIDE COUNSEL EYES ONLY – PROCESS RECIPE" and, if appropriate, "SUBJECT TO PROSECUTION BAR". Upon receipt of such notice, the Receiving Party must make all reasonable efforts to ensure that the Material is treated in accordance with the terms of this Order, subject to the right to challenge the propriety of such designation(s). The Producing Party must provide substitute copies of documents bearing the confidentiality designation. Any Receiving Party must also make all reasonable efforts to retrieve any documents from anyone who had received the documents prior to the notification to the Receiving Party of the inadvertent failure to designate and who is no longer permitted to access the documents under the new designation.

N. Filing Designated Material

53. Designated Material shall be filed under seal in conformance with the Court's rules and procedures.

O. Challenges to Confidentiality Designations

54. The Parties will use reasonable care when designating documents or information as "CONFIDENTIAL", "OUTSIDE COUNSEL EYES ONLY", "OUTSIDE COUNSEL EYES ONLY – SOURCE CODE", "OUTSIDE COUNSEL EYES ONLY – PROCESS RECIPE" and/or "SUBJECT TO PROSECUTION BAR." Nothing in this Order prevents a Receiving Party from contending that any or all information, documents, or things designated as "CONFIDENTIAL" Material, "OUTSIDE COUNSEL EYES ONLY" Material, "OUTSIDE COUNSEL EYES ONLY – SOURCE CODE" Material, "OUTSIDE COUNSEL EYES ONLY – PROCESS RECIPE" Material and/or "SUBJECT TO PROSECUTION BAR" Material have been improperly designated. A Receiving Party may at any time request that the Producing Party cancel or modify the confidentiality designation with respect to any document or information contained therein, subject to the procedure in Paragraph 55.

55. A Party is not obligated to challenge the propriety of a "CONFIDENTIAL", "OUTSIDE COUNSEL EYES ONLY", "OUTSIDE COUNSEL EYES ONLY – SOURCE CODE", "OUTSIDE COUNSEL EYES ONLY – PROCESS RECIPE" and/or "SUBJECT TO PROSECUTION BAR" designation at the time made, and the failure to do so does not preclude a subsequent challenge thereto. Such a challenge must be written, must be served on counsel for the Producing Party, and must particularly identify by Bates number and set forth for each such document the specific reason the Receiving Party believes the designation is improper for the document that the Receiving Party contends should be designated differently. If a Receiving Party challenges a confidentiality designation of a Producing Party, the Receiving Party will treat the document(s) subject to the challenge according to the terms of the Producing Party's original confidentiality designation until the challenge is resolved. The Parties must use their best efforts to resolve such disputes promptly and informally. If agreement cannot be reached after informal negotiation, the Parties must meet and confer by telephone (voice mail messages

are insufficient) or in person prior to filing any motion. The Receiving Party may request that the Court cancel or modify a "CONFIDENTIAL", "OUTSIDE COUNSEL EYES ONLY", "OUTSIDE COUNSEL EYES ONLY – SOURCE CODE", "OUTSIDE COUNSEL EYES ONLY – PROCESS RECIPE" and/or "SUBJECT TO PROSECUTION BAR" designation. 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.

P. Other Proceedings

56. By entering this Order and limiting the disclosure of information in this case, the Court does not intend to preclude another court from finding that information may be relevant and subject to disclosure in another case. Any person or party subject to this Order who becomes subject to a motion to disclose another party's information designated "CONFIDENTIAL", "OUTSIDE COUNSEL EYES ONLY", "OUTSIDE COUNSEL EYES ONLY – SOURCE CODE" or "OUTSIDE COUNSEL EYES ONLY – PROCESS RECIPE" pursuant to this Order must promptly notify that party of the motion so that the party may have an opportunity to appear and be heard on whether that information should be disclosed.

57. Specifically, if a Receiving Party is served with a subpoena or a court order that would compel disclosure of any information, documents, or things designated in this action as "CONFIDENTIAL", "OUTSIDE COUNSEL EYES ONLY", "OUTSIDE COUNSEL EYES ONLY – SOURCE CODE", or "OUTSIDE COUNSEL EYES ONLY – PROCESS RECIPE" the Receiving Party must so notify the Designating Party in writing (by email or courier such as FedEx) as soon as reasonably possible and in any event, before any compliance under such subpoena or Court order is requested or required. Such notification must include a copy of the subpoena or order. The Receiving Party also must immediately inform in writing the party who caused the subpoena or order to issue that some or all of the Material covered by the subpoena or order is the subject of this

Protective Order. In addition, the Receiving Party must deliver a copy of this Protective Order promptly to the party in the other action that caused the subpoena or order to issue. The purpose of imposing these duties is to alert the interested parties to the existence of this Protective Order and to afford the Designating Party in this case an opportunity to protect its confidentiality interests in the court from which the subpoena or order issued. The Designating Party must bear the burdens and the expenses of seeking protection in that court of its Designated Material. 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.

Q. Unauthorized Disclosure of Designated Material

58. 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, the Receiving Party must immediately (i) notify in writing the Designating Party of the unauthorized disclosures, (ii) use its best efforts to retrieve all copies of the Designated Material, (iii) inform the person or persons to whom unauthorized disclosures were made of all the terms of this Order, and (iv) request such person or persons to execute the "Acknowledgment and Agreement to Be Bound" attached hereto as Exhibit A.

R. Export Control of Designated Material

59. A Receiving Party may not transmit or transport or communicate Designated Material designated as "CONFIDENTIAL", "OUTSIDE COUNSEL EYES ONLY", "OUTSIDE COUNSEL EYES ONLY – SOURCE CODE", and/or "OUTSIDE COUNSEL EYES ONLY – PROCESS RECIPE" to any person, location, or vendor outside of the United States, without the written agreement of the Producing Party or an order of the Court. This provision is not intended to prevent the Receiving Party's Counsel of Record from transporting Designated Material abroad for use in depositions (or the foreign equivalent) or related proceedings provided, however, that: (i) use in any foreign deposition(s) is otherwise consistent with the provisions of this Protective Order; (ii)

Counsel of Record undertakes reasonable precautions at all times to ensure the security of Designated Material when being transported and used abroad; and (iii) any material transported outside of the United States for depositions must be securely transported back United States after the deposition is complete or provided to counsel for the Producing Party conclusion of the deposition.

S. Non-Party Use of This Protective Order

60. A non-party producing information or Material voluntarily or pursuant to a subpoena or a court order may designate such Material or information in the same manner and will receive the same level of protection under this Protective Order as any Party to this lawsuit. Non-parties must use reasonable care when designating documents or information as "CONFIDENTIAL", "OUTSIDE COUNSEL EYES ONLY", "OUTSIDE COUNSEL EYES ONLY – SOURCE CODE", "OUTSIDE COUNSEL EYES ONLY – PROCESS RECIPE" and/or "SUBJECT TO PROSECUTION BAR". Nothing in this Order prevents a Receiving Party from contending that any or all information, documents, or things designated as "CONFIDENTIAL" Material, "OUTSIDE COUNSEL EYES ONLY" Material, "OUTSIDE COUNSEL EYES ONLY – SOURCE CODE" Material, "OUTSIDE COUNSEL EYES ONLY – PROCESS RECIPE" Material and/or "SUBJECT TO PROSECUTION BAR" Material have been improperly designated. The procedure for challenging a nonparty's confidentiality designations will be the same procedure as set forth in Section O, above.

61. A non-party's use of this Protective Order to protect its "CONFIDENTIAL" Material, "OUTSIDE COUNSEL EYES ONLY" Material, "OUTSIDE COUNSEL EYES ONLY – SOURCE CODE" Material or "OUTSIDE COUNSEL EYES ONLY – PROCESS RECIPE" Material does not entitle that non-party access to "CONFIDENTIAL" Material, "OUTSIDE COUNSEL EYES ONLY" Material, "OUTSIDE COUNSEL EYES ONLY – SOURCE CODE" Material or "OUTSIDE COUNSEL EYES ONLY – PROCESS RECIPE" Material produced by any Party in this case.

T. Duration

62. Even after the termination of this action, the confidentiality obligations imposed by this Order will remain in effect until a Designating Party agrees otherwise in writing or a court order otherwise directs.

U. Final Disposition

63. Unless otherwise ordered or agreed in writing by the Producing Party, within sixty (60) calendar days after the final disposition of this action, each Receiving Party must destroy or return all Designated Material to the Producing Party. As used in this paragraph, "all Designated Material" includes all copies, abstracts, compilations, summaries, or any other form of reproducing or capturing any of the Designated Material. The Receiving Party must submit a written confirmation of the return or destruction to the Producing Party (and, if not the same person or entity, to the Designating Party) by the 60-day deadline. Notwithstanding this provision, Counsel of Record may retain an archival copy of all pleadings, motion papers, briefs and supporting materials, deposition transcripts (including exhibits), transcripts of other proceedings (including exhibits), written discovery requests and responses, any documents or materials filed or used in court, exhibits offered or introduced into evidence at trial, legal memoranda, correspondence, or attorney work product, even if such materials contain Designated Material. Counsel of Record may also retain an archival copy of attorney work product found in e-mail. Counsel of Record must make best efforts to delete all other e-mail that contains Designated Material.

V. Miscellaneous

64. Any of the notice requirements herein may be waived, in whole or in part, but only by a writing voluntarily and explicitly agreeing to such waiver signed by the Counsel of Record for the Party against whom such waiver will be effective.

65. This Order is entered without prejudice to the right of any Party to apply to the Court at any time for additional protection or to relax or rescind the restrictions of this Order, when convenience or necessity requires. No Party waives any right it otherwise

would have to object to disclosing or producing any information, documents, or things on any ground not addressed in this Protective Order. Similarly, no Party waives any right to object on any ground to the use in evidence of any of the Material covered by this Protective Order. The Court will take appropriate measures to protect Designated Material at trial and any hearing in this case.

66. This Order does not diminish any existing obligation or right with respect to Designated Material, nor does it prevent a disclosure to which the Designating Party consents in writing before the disclosure takes place.

67. The United States District Court for the Western District of Texas is responsible for the interpretation and enforcement of this Protective Order. All disputes concerning Designated Material produced under the protection of this Protective Order will be resolved by the United States District Court for the Western District of Texas. Every individual who receives any Designated Material agrees to subject himself or herself to the jurisdiction of this Court for the purpose of any proceedings related to performance under, compliance with, or violation of this Order.

68. Injunctive Relief. Every individual who reviews Designated Material acknowledges that a breach of this Order may result in immediate and irreparable injury for which there is no adequate remedy at law. A party may immediately apply to obtain temporary, preliminary, and permanent injunctive relief against a violation or threatened violation of this Order.

SIGNED this 16th day of September, 2019.



ALAN D. ALBRIGHT
UNITED STATES DISTRICT JUDGE

EXHIBIT A

**ACKNOWLEDGMENT AND AGREEMENT TO BE
BOUND BY PROTECTIVE ORDER**

I, _____ [print or type full name], state:

1. I reside at _____;

2. My present employer is _____;

3. My present occupation or job description is _____;

4. I have been informed of and have reviewed the Protective Order entered in the matters of *VLSI Technology LLC v. Intel Corp.*, Civil Actions No. 6:19-cv-00254-ADA, 6:19-cv-00255-ADA, and 6:19-cv-00256-ADA, in the United States District Court for the Western District of Texas, and I will not divulge any information, documents, or things that are subject to the Protective Order except in accordance with the provisions of the Order;

5. I agree to be subject to the authority and jurisdiction of the United States District Court for the Western District of Texas in the event of any violation or dispute related to this agreement;

6. I state under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on _____, 20__.

Signature

EXHIBIT B

CERTIFICATION OF OUTSIDE CONSULTANT

I, _____, state:

1. I have read the Protective Order ("Order") in the matters of *VLSI Technology LLC v. Intel Corp.*, Civil Actions No. 6:19-cv-00254-ADA (W.D. Tex.), 6:19-cv-00255-ADA (W.D. Tex.), and 6:19-cv-00256-ADA (W.D. Tex.), dated September 12, 2019, and understand and will abide by its terms.

2. I am not a current or anticipated officer, director, or employee of a Party or of a Party's competitor.

3. If at any time after I execute this Certificate of Outside Consultant and during the pendency of the litigation I become an employee or competitor of a Party, I will promptly inform the counsel for the Party who retained me in this litigation. I will not thereafter review any Designated Materials marked as "OUTSIDE COUNSEL EYES ONLY" or "OUTSIDE COUNSEL EYES ONLY – SOURCE CODE" unless and until the Parties agree or the Court orders otherwise.

4. I will not use any Designated Material for any purpose other than this litigation.

5. I agree to be subject to the authority of the District Court of the Western District of Texas in the event of any dispute related to this certification.

6. I state under penalty of perjury under the laws of the United States that the foregoing is true and correct.

Executed on _____, 20__.

Signature

EXHIBIT C

**LITIGATION MANAGER ACKNOWLEDGMENT AND AGREEMENT
TO BE BOUND BY PROTECTIVE ORDER**

I, _____, state:

1. I reside at _____.

2. My present employer is _____.

3. I have read the Protective Order ("Order") in the matters of *VLSI Technology LLC v. Intel Corp.*, Civil Actions No. 6:19-cv-00254-ADA (W.D. Tex.), 6:19-cv-00255-ADA (W.D. Tex.), and 6:19-cv-00256-ADA (W.D. Tex.), dated September 12, 2019, and understand and will abide by its terms.

4. I meet the Order's requirements for a Litigation Manager.

5. I will not divulge any confidential information or material to persons other than those specifically authorized by the Order. I will not use Designated Material in any manner not expressly allowed by the Order.

5. I agree to be subject to the authority of the District Court of the Western District of Texas in the event of any dispute related to this agreement.

7. I state under penalty of perjury under the laws of the United States that the foregoing is true and correct.

Executed on _____, 20__.

Signature

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
WACO DIVISION**

VLSI TECHNOLOGY LLC,
Plaintiff,

v.

INTEL CORPORATION,
Defendant.

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W:21-CV-00057-ADA

ORDER

In light of the briefs and arguments heard in numerous hearings in the above case the Court enters the following tables that formalize the oral rulings made to date. A short description of the motion along with the corresponding docket numbers and ruling are noted in the tables below.

Dkt.	Description	Decision
252	Intel MSJ re: Indirect & Willful Infringement	Pre-suit indirect: Denied Pre-suit willfulness: Denied Post-suit willfulness: Denied, but VLSI will not be permitted to argue as evidence of willfulness that Intel continued to manufacture products after they were sued. Enhanced damages: Denied
253	Intel MSJ re: DOE for '759 Patent	Denied
254	Intel MSJ re: Non-Infringement of '373 Patent	Denied
255	Intel MSJ re: Non-Infringement of '357 Patent	Granted
256	Intel MSJ re: '357 Priority Date	Moot
257	Intel MSJ re: DOE for Six Patents	Denied
261	Intel Daubert for Annavaram re: Power Testing for '373 Patent	Denied
262	Intel Daubert for Conte and Annavaram re: Power Testing for '759 Patent	Denied

263	Intel Daubert for Chandler	Partially Granted (Not allowed to testify on Intel's unwillingness to license absent a lawsuit; with respect to rebuttal, Intel may <i>voir dire</i> Chandler to determine his opinion and the basis for his opinion)
264	Intel Daubert for Sullivan	Denied
265	Intel Daubert for Annavaram re: Power Testing of '373 Patent	Denied
266	Intel Daubert re: Innography	Denied
267	Intel Daubert re: Litigation Misconduct	Converted to motions-in-limine, which were Granted
275	VLSI MSJ	Unclean hands: Denied Marking: Granted (Plaintiff cannot bring in evidence of prior products)
276	VLSI Daubert to Exclude Damages-Related Testimony of Intel Experts	Pascarella: Granted Colwell: Denied (but VLSI may object if Dr. Colwell says/hints that the patents are not valid or not infringed) Huston: Denied (But if Huston tries to address ROI at trial Judge won't let him, and VLSI may object if Mr. Huston says/hints that the patents are not valid or not infringed)
366	Defendant Intel Corporation's Emergency Opposed Motion To Continue Trial	Denied
367	Defendant Intel Corporation's Motion To Stay Court Proceedings	Denied

Dkt.	MIL	Decision
363	VLSI MIL No. 1.1 – Geographic location of infringement activities.	Granted
363	VLSI MIL No. 1.2 – References to alleged noninfringement alternatives	Granted
363	VLSI MIL No. 1.3 – Indefiniteness arguments not raised during claim construction	Granted, but if the door is opened at trial, the parties are directed to apprise the Court outside of the presence of the jury.
363	VLSI MIL No. 1.4 – Fact witness testimony instructed not to answer	Granted - because irrelevant; fact witnesses may only testify about facts
363	VLSI MIL No. 1.5 – Intel refused to provide testimony	Granted - because irrelevant
363	VLSI MIL No. 1.6 – Hypothetical royalty stacking	Granted, but if the door is opened at trial, the parties are directed to apprise the Court outside of the presence of the jury.
363	VLSI MIL No. 1.7 – Alleged inventor misconduct before the PTO	Granted

CONFIDENTIAL MATERIAL FILED UNDER SEAL REDACTED

364	VLSI MIL No. 2.1 – Fortress expected returns	Granted, but not definitively barred, just need to be given context when it is proffered in order to make a determination at trial.
364	VLSI MIL No. 2.2 – Plaintiff relationship with SoftBank	Intel will not affirmatively offer evidence about SoftBank but may offer such evidence if VLSI opens the door. Intel may discuss VLSI's relationship with Fortress, but disparaging remarks not allowed.
364	VLSI MIL No. 2.3 – Pejorative description of the Plaintiff	Granted (as to both parties).
364	VLSI MIL No. 2.4 – Damages are unprecedented or lottery ticket	Granted
364	VLSI MIL No. 2.5 – How VLSI is paying the cost of the litigation	Granted (as to both parties).
364	VLSI MIL No. 2.6 – Other litigation involving VLSI	Granted (as to both parties).
364	VLSI MIL No. 2.7 – Forum shopping.	Granted
364	VLSI MIL No. 2.7 – Litigation abuse	Granted
364	VLSI MIL No. 2.7 – Western District as a popular venue	Granted
364	VLSI MIL No. 2.8 – Attorney fee agreements between VLSI and its counsel	Granted (as to both parties).
364	VLSI MIL No. 2.9 – Allegations of any discovery abuse including withholding docs or destruction of docs by either party	Granted (as to both parties).
364	VLSI MIL No. 2.10 – [REDACTED]	Granted
364	VLSI MIL No. 2.10 – State bar claim	Granted
365	VLSI MIL No. 3.1 – Julie Davis	Denied
365	VLSI MIL No. 3.2 – Intel's reputation in the industry	Granted
365	VLSI MIL No. 3.2 – Intel's reputation for innovation	Denied
365	VLSI MIL No. 3.2 – Intel's reputation for philanthropy	Granted (as to both parties).
365	VLSI MIL No. 3.3 – Possibility that damages could be enhanced	Granted
365	VLSI MIL No. 3.4 – Possibility of damages increasing the price of products etc.	Granted
368	VLSI MIL No. 4.1 – Intel's products practicing comparable third party patents	Denied, but going to take it up with relevant witnesses and address it with respect to relevance.

CONFIDENTIAL MATERIAL FILED UNDER SEAL REDACTED

368	VLSI MIL 4.2 - Mr. Huston's [REDACTED] Hearsay Evidence	Consistent with Intel's statement in its Motion in Limine No. 4 to Exclude Evidence and Argument Regarding [REDACTED] (D.I. 362 at 7-8 n.4), the parties stipulate that neither Intel nor VLSI will offer any evidence or opinions regarding [REDACTED] for any purpose in Case No. 6:19-cv-000254, i.e. Case No. 6:21-cv-57.
368	VLSI MIL No. 4.3 – Intel's patents	Intel is allowed to say accurate historical information about their patent portfolio but “Intel is not going to connect, intimate or say explicitly that the fact that they have patents has any impact with respect to the value of your patents” in its opening statement. Intel must raise it with the Court before they put on any expert “who might mention a specific patent.” VLSI may then object at that time. A charge to the jury is allowed. Statements that certain patents exist is allowed, but no need to mention they're Intel patents. Intel must notify the court if they plan to discuss one of their patents and VLSI has an opportunity to object. VLSI notes that Intel has represented they will not be arguing invalidity based on any elected prior art patents.
368	VLSI MIL No. 4.4 – Patents not valuable because they were not infringed	Resolved by the Court's ruling on VLSI's <i>Daubert</i> motion challenging the testimony of Dr. Colwell (D.I. 276).
369	VLSI MIL No. 5.2 – Excluding Intel's experts from relying on hearsay	Denied, but the evidence has to be in the expert reports or trial record for an expert to rely on it as to both sides. If expert relies on a hearsay statement that is not disclosed in the expert's report, evidence of what the declarant said has to be presented at trial.
369	VLSI MIL No. 5.3 – Evidence or argument contrary to claim constructions	Granted as to all sides
369	VLSI MIL No. 5.4 – Predecessor's non-assertion against Intel	Granted
369	VLSI MIL No. 5.5 – Value and propriety of acquiring patents from others	Granted
369	VLSI MIL No. 5.6 – Prior retentions and court rulings in other courts	Granted as to both sides if the door is opened casting experts in a negative light, experts are able to explain why.
370	VLSI MIL No. 6.2 – Absence of Inventors at trial	Intel cannot intimate that VLSI should've/could've brought inventors and they're hiding something unless

		VLSI opens the door (ex. VLSI has testimony that patent made Intel what it is)
369	VLSI MIL No. 5.1 – Lay witness infringement opinions	Granted - fact witnesses may only testify about facts
370	VLSI MIL No. 6.1 – Intel's Alleged Unclean Hands Defense	Granted
370	VLSI MIL No. 6.3 – Disparaging The PTO And Its Examiners	Granted unless door is opened
370	VLSI MIL No. 6.4 – Prosecution history	Denied
370	VLSI MIL No. 6.5 – Withdrawn or narrowed claims	Granted
370	VLSI MIL No. 6.6 – Non-Elected Prior Art	Granted – Relevant to damages, but not a decision on admissibility for other purposes; parties may ask and object to non-elected prior art or individual claim elements - applies to both parties (below) (Intel not going to offer prior art for damages purposes that was not already included in expert reports and parties are instructed to object at trial).
370	VLSI MIL No. 6.7 – Allegations That Individual Claim Elements Were In The Prior Art	Granted (Need to be discussed in the context of damages or obviousness rather than individually) (also see above -applies to both parties).
370	VLSI MIL No. 6.8 – Comparing Accused Products To Prior Art	Objections can be made with respect to admissibility
362	Intel MIL No. 1 – Exclude References to Other Litigations and Proceedings	Granted
362	Intel MIL No. 2 – Exclude References to Discovery Disputes	Granted
362	Intel MIL No. 3 – Exclude References to Intel’s Purported Bad Acts and Conduct Outside This Litigation	Granted - unless Intel opens the door
362	Intel MIL No. 5 – Exclude Argument or Testimony That Intel Is a “Patent Holdout”	Resolved by the Court’s ruling on Intel’s <i>Daubert</i> motion challenging the testimony of Mr. Chandler (D.I. 263) and VLSI’s representation that it will not refer to Intel as a “patent holdout.”
362	Intel MIL No. 6 – Exclude Irrelevant and Prejudicial References to Intel and Processor Industry Financial Performance, Financial Metrics, and Prior Intel Litigation Settlements	Granted - comments about sales about accused products is okay, anything irrelevant to damages calculation is out; sales must be both in expert reports & relevant; settlement agreements cannot be part of either party’s opening. After openings, the parties must notify the court prior to discussing any of the settlement agreements so the other party has an opportunity to object.

362	Intel MIL No. 7 – Exclude References to Innography Patent Strength Scores	Denied
362	Intel MIL No. 8 – Exclude Expert Testimony Based on Speculation	Denied, but specifically resolved by the Court's <i>Daubert</i> motion ruling (D.I. 267) as to the issue of Professor Conte testifying that "it is quite likely that if he were to examine confidential information from other companies, he'd find the patent widely used, and if he were to examine unaccused Intel products, he'd find that it would -- may be used there as well."
362	Intel MIL No. 9 – Preclude VLSI's Experts From Offering Testimony About Sigmatel, Freescale, or Nxp	Denied, but the parties should limit what they say in opening argument to factual information about these companies.
362	Intel MIL No. 10 – Exclude References to Expert Testimony in Other Cases	Granted
362	Intel MIL No. 12 – Exclude Prejudicial Evidence and Testimony Regarding the Deceased Inventor of the '759 Patent	Denied - may offer that he is dead, but not the details of his death (must be offered in an admissible manner)
362	Intel MIL No. 13 – Exclude Comparisons of Intel Products to Patent Embodiments	Denied.
362	Intel MIL No. 14 – Exclude Comparisons of Burden of Proof Standards	Denied

SO ORDERED.

SIGNED this 19th day of February, 2021.



ALAN D ALBRIGHT
UNITED STATES DISTRICT JUDGE