



STRATTON LAW & MEDIATION

INTELLECTUAL PROPERTY LAW & TECHNOLOGY RELATED MATTERS

MUTUAL CONFIDENTIALITY AGREEMENT *for purposes of mediation*

In order to promote communication among the parties with the mediator, and to facilitate a mediated settlement of our dispute, we agree:

- Neither the mediator nor the mediator's law firm (collectively "Mediator") has liability for any act or omission in connection with the mediation of the dispute between us.
- The Mediator is a neutral intermediary who may not act as an advocate for any party.
- The mediation is strictly confidential and
 - all statements made during the course of mediation are privileged settlement discussions; are made without prejudice to any legal position of any of party; and are non-discoverable and inadmissible for any purpose in any legal proceeding whether now filed, or which may be filed in the future regarding the issues which are the subject matter of the current dispute in mediation;
 - the privileged character of any information is not altered by disclosure to the Mediator;
 - disclosure of any records, reports or other documents received or prepared by the Mediator cannot be compelled. The Mediator cannot be compelled to disclose or to testify in any proceeding as to: (i) any records, reports, or other documents received or prepared by the Mediator; or (ii) information disclosed or representations made in the course of the mediation or otherwise communicated to the Mediator in confidence;
 - this confidentiality understanding and agreement as to privileged communications applies to any communication, written or oral, made by either of us to the other in the course of mediation. Our goal is to permit the free exchange of information during mediation and to facilitate to the greatest extent possible the resolution of our dispute without continuing litigation.
- No aspect of the mediation shall be relied upon or introduced as evidence in any arbitration, judicial or other proceeding, including but not limited to: (a) views expressed or suggestions made with respect to possible settlements; (b) admissions made in the course of the mediation proceedings; and (c) proposals made or views expressed by the Mediator or the communications of any one of us.

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- We are disclosing to one another, and to you as Mediator, sensitive information in reliance upon this agreement of confidentiality. Any breach of this agreement would cause irreparable injury for which monetary damages would be inadequate. Consequently, any one of us who is a party to this mediation may obtain a temporary restraining order or preliminary or permanent injunction to prevent disclosure of any such confidential information in violation of this agreement.
- Anyone who breaches this agreement shall be liable for, and shall indemnify, defend and hold harmless, any other party who is not in breach of this agreement, including you the Mediator, for all costs, expenses, liabilities and fees, including attorneys' fees, which may be incurred as a result of such breach. This provision may be enforced in any court that has jurisdiction to enforce this agreement.

By executing this Confidentiality Agreement, each of the undersigned agrees: (i) to be bound by its terms; and (ii) that the Mediator would not agree to mediate the matter without the execution and delivery of the Agreement.

Participants:

Name _____

Date: _____

Name _____

Date: _____

Accepted this ____ day of _____, 2009.

Rex B. Stratton, *Mediator*
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