

**REQUEST FOR WITHHOLDING INFORMATION
FROM ROUTINE PUBLIC DISCLOSURE**
File No. 0678-EX-ST-2012

The Mobile and Communications Group of Intel Corporation (“Intel”) requests pursuant to Section 0.459 of the Commission’s Rules that certain materials included within the above-referenced application for special temporary authority be withheld from routine public disclosure. In support of that request, Intel provides the following information:

Identification of materials to be withheld from routine public disclosure (§0.459(b)(1)): Intel requests that all of the information contained in Attachment 1 to the application be withheld from routine public disclosure. Intel does not seek to withhold from public inspection any information necessary for interference mitigation, including the applicant name, contact information, locations, frequencies and power levels.

Identification of the Commission proceeding in which the information was submitted (§0.459(b)(2)): The material has been submitted in connection with the Intel application for special temporary authority that has been assigned File No. 0678-EX-ST-2012.

Explanation of the degree to which the information is commercial or financial, or contains a trade secret, or is privileged (§0.459(b)(3)): The market for the devices that are the subject of the request for special temporary authority is a highly competitive one, with numerous vendors battling for the business of customers through, among other things, the frequent introduction of new models with innovative features. Were Intel’s competitors to learn at this time the facts set forth in Attachment 1 to the application regarding the product that Intel is testing, it could deprive Intel of the marketplace benefits it otherwise will achieve by virtue of having product available before other competitors. That, in turn, would have an adverse impact on Intel’s competitive standing with the prospective customer base to which the device will be marketed. Intel closely guards the information in Attachment 1 against disclosure to competitors and the public. The information for which confidential treatment is sought concerns Intel’s private business and operations and “would customarily be guarded from competitors.” *See* 47 C.F.R. §§ 0.459(a)(4), 0.457(d)(2). Such proprietary and confidential information may be withheld from public disclosure under FOIA Exemption 4.

Explanation of the degree to which the information concerns a service that is subject to competition (§0.459(b)(4)): As discussed above, the market for the wireless devices that are the subject of the request for special temporary authority is a highly competitive one. The information for which confidential treatment is sought concerns Intel’s private business and operations and “would customarily be guarded from competitors.” *See* 47 C.F.R. §§ 0.459(a)(4), 0.457(d)(2).

Explanation of how disclosure of the information could result in substantial competitive harm (§0.459(b)(5)): Public disclosure of the commercially-sensitive, proprietary, and confidential operational and technical information set forth in the

Attachment 1 would cause competitive harm to Intel. The wireless industry is highly competitive, and thus competitors always are interested in learning information about device prototypes of others, as well as applicable development and testing schedules in order to gain a competitive advantage. As noted above, were Intel's competitors to become aware of the facts set forth in the Attachment 1 to the application at this time, it could deprive Intel of the marketplace benefit it otherwise will achieve by virtue of having product available before other competitors and thus have an adverse impact on Intel's competitive standing. The D.C. Circuit has found that parties do not have to "show actual competitive harm" to justify confidential treatment. Rather, "[a]ctual competition and the likelihood of substantial competitive injury' is sufficient to bring commercial information within the realm of confidentiality." *Public Citizen Health Research Group*, 704 F.2d at 1291, quoting *Gulf & Western Industries v. U.S.*, 615 F.2d 527, 530 (D.C. Cir. 1979).

Identification of any measures taken by the submitting party to prevent unauthorized disclosure (§0.459(b)(6)): Intel will not be disclosing to the public that it is on the verge of delivering the devices discussed in Attachment 1 for evaluation by select Intel employees, contractors and partners or that it has sought this special temporary authority. Those Intel employees receiving the devices for testing will be instructed on the need to maintain confidentiality regarding the nature and source of the device, and all Intel contractors and partners that receive the devices are subject to confidentiality agreements.

Identification of whether the information is available to the public and the extent of any previous disclosure of the information to third parties (§0.459(b)(7)): Intel has not made the information subject to this request available to the public and does not routinely disclose such commercially sensitive information to the public or to third parties, and has established procedures to protect such information internally. Some of the details regarding the prototype devices that are the subject of the application have been disclosed to a very select group of potential partners, but in all cases pursuant to non-disclosure agreements. There has been no prior disclosure that Intel is seeking this special temporary authority or is on the verge of delivering prototype devices to employees for testing. Intel voluntarily provides the information at this time with the expectation that it will be treated confidentially in accordance with the Commission's rules. See *Critical Mass Energy Project v. Nuclear Regulatory Comm'n*, 975 F.2d 871, 879 (D.C. Cir. 1992) (commercial information provided on a voluntary basis "is 'confidential' for the purpose of Exemption 4 if it is of a kind that would customarily not be released to the public by the person from whom it was obtained.").

Justification of the period during which the submitting party asserts that material should not be available for public disclosure (§0.459(b)(8)): Given the competitive nature of the marketplace, disclosure that Intel is about to enter the particular marketplace referenced in Attachment 1 would harm Intel's competitive position. Intel requests that the information be held confidential during the period for which special temporary authority for experimental operations is requested, and thereafter until such information no longer is deemed confidential and proprietary by Intel and no longer subject to Intel's internal procedures for maintaining its confidentiality.

Any other information that the party seeking confidential treatment believes may be useful in assessing whether its request for confidentiality should be granted (§0.459(b)(9)): The information for which confidential treatment is requested falls within Exemption 4 of the Freedom of Information Act (“FOIA”), which provides a statutory basis for withholding from public inspection “matters that are trade secrets and commercial or financial information obtained from a person and privileged or confidential.” 5 U.S.C. § 552(b)(4).

Consistent with 47 C.F.R. § 0.459(d)(1), Intel requests notification if release of the information subject to this request is requested pursuant to the FOIA or otherwise, so that Intel may have an opportunity to oppose grant of any such request.