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REQUEST FOR CONFIDENTIAL TREATMENT

FILED ELECTRONICALLY

Mr. Anthony Serafini
Chief, Experimental Licensing Branch
Office of Engineering and Technology
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

Re: Wisper ISP, Inc. Application for Experimental Special Temporary Authority

Dear Mr. Serafini:

Wisper ISP, Inc. (“Wisper”), by counsel, hereby requests that the technical narrative contained in its application for experimental Special Temporary Authority (“STA”) filed contemporaneously with this request as well as the specific details of the equipment in use be held in confidence and not made available for public inspection pursuant to Section 0.459 of the Commission’s rules. *See* 47 C.F.R. § 0.459. As detailed herein, confidential treatment of this document is appropriate under Exemption 4 of the Freedom of Information Act (“FOIA”), which applies to information constituting “trade secrets and commercial ... information” that “would not customarily be released to the public.” *See* 5 U.S.C. § 552(b)(4); 47 C.F.R. § 0.457(d).

In support of its request for confidential treatment, Wisper provides the following information, as required under Section 0.459(b) of the Commission’s Rules –

1. *Specific Information for Which Confidential Treatment is Sought - § 0.459(b)(1):* Wisper seeks confidential treatment for the entire technical description submitted with its application as well as the manufacturer and model information for the equipment subject to testing. The characteristics, methodologies, technical descriptions and equipment identified in the description of the research project are proprietary to Wisper and its equipment supplier.

2. *Circumstances Giving Rise to the Submission - § 0.459(b)(2):* The proprietary technical information submitted to the FCC is required in connection with Wisper’s application for an FCC experimental STA under Part 5 of the FCC’s Rules. *See* 47 C.F.R. § 5.61.



3. Degree to Which the Information Is Commercial or Financial or Contains A Trade Secret or Is Privileged - § 0.459(b)(3): The technical information for which Wisper is requesting confidential treatment contains commercially sensitive information “which would customarily be guarded from competitors.” *See, e.g., James A. Kay, Jr.*, 17 FCC Rcd 1834 (2002) (withholding such information from public inspection). This information includes, but is not limited to, detailed information concerning the experimental equipment to be used, including the manufacturer’s identity and model identifier, as well as the details of the testing methodology to be employed by Wisper in the proposed trial. The application therefore reveals substantial non-public information concerning the Citizen’s Broadband Radio Service (“CBRS”) equipment to be used and how the equipment will be tested to gather operational information. Disclosure of this information to competitors of Wisper or its equipment supplier would be competitively harmful. Accordingly, public disclosure of the confidential terms of these documents could materially impair Wisper’s business plan and/or those of its equipment supplier.

4. Degree to Which the Information Concerns a Service That Is Subject to Competition - § 0.459(b)(4): There is substantial competition in the emerging market for 3.5 GHz CBRS transmitting equipment that is the subject of the experimental trial proposed in the application. Because new and innovative equipment and services are just now being tested for near-term deployment, competition among equipment vendors and service providers is particularly intense at this time, and service providers and equipment manufacturers alike have a strong interest in protecting from disclosure proprietary information concerning their potential future products and service offerings and the means by which they are testing new equipment and systems.

5. How Disclosure of the Information Could Result In Substantial Competitive Harm - § 0.459(b)(5): Information about the operating characteristics and performance of the equipment to be utilized in Wisper’s experimental research program could be misused by both current and potential competitors of Wisper and/or its equipment supplier to gain commercially exploitable knowledge, thereby allowing them to reap unfair advantages in formulating their own plans for technical development of competing CBRS equipment. This is a particularly critical time for a company that is pursuing product development and research methodologies to protect its plans from disclosure to third parties. Release of the details of this experimental program to potential competitors would allow others to benefit from plans and information that Wisper and its equipment supplier have spent considerable time and money developing, and to adapt their own plans based on this proprietary information.

6. Measures Taken by the Applicant to Prevent Unauthorized Disclosure - § 0.459(b)(6): Wisper and its equipment supplier have agreed to strict limitations on the use and sharing of proprietary information under a non-disclosure agreement. Information included in the application concerning the equipment to be tested, the performance metrics to be evaluated, and the goals of the equipment trial all fall within the category of confidential information under this agreement. In accordance with these terms, Wisper and the parties with which it has contracted have limited access to proprietary information solely to those employees, contractors and agents who require knowledge of the tests described in the experimental STA application in



order to perform their duties and fulfill the companies' obligations to each other under their contracts. Any other disclosure of law requires prior consent of the other party.

7. *The Information Submitted Is Not Available to the Public and Has Not Previously Been Disclosed to Third Parties, Except For Appropriately Limited Circumstances* - § 0.459(b)(7): No part of the Wisper experimental STA application has been publicly disclosed to date. Disclosure has been limited by the parties to employees, counsel, contractors and agents of Wisper who have a specific need to review and analyze proprietary technical information relating to the equipment under test and the experimental testing program to be executed under the requested experimental STA.

8. *Period During Which the Submitted Material Should Not Be Available for Public Disclosure* - § 0.459(b)(8): Wisper respectfully requests that the technical description included in its experimental STA application be kept confidential for the duration of the STA, plus any extension period subsequently granted, and for five years thereafter. It is expected that at the end of this period of time the market for CBRS equipment will be sufficiently developed and the tested equipment widely deployed, such that there will no longer be a need to keep the details of this equipment testing trial confidential.

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For all of the foregoing reasons, Wisper requests that the Commission withhold the technical appendix to its experimental STA application from public inspection, according it full confidential treatment for the period outlined above. In the event that a request for examination of this document is filed within that time period, Wisper respectfully requests an opportunity to respond and to provide a partially redacted version in lieu of full disclosure.

Respectfully submitted,

By: _____
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