

REQUEST FOR CONFIDENTIAL TREATMENT

Intelligent Designs, LLC (“Intelligent Designs” or “Applicant”), pursuant to Sections 0.457 and 0.459 of the Commission’s Rules, 47 C.F.R. §§ 0.457, 0.459, respectfully requests that certain materials included within its application for Special Temporary Authority (“STA”) be withheld from routine public disclosure. In support of the request, Intelligent Designs provides the following information:

1. Identification of the Information For Which Confidential Treatment is Sought.

Applicant seeks confidential treatment for the following exhibits:

- Exhibit A- Special Temporary Authority Justification
- Exhibit B- Experiment Description
- Exhibit C- Justification for Expedited Treatment
- Exhibit D- Sponsorship Letter
- Exhibit E- In-motion Terminal Description and Antenna Patterns
- Exhibit F- Fixed Terminal Antenna Patterns
- Exhibit G- Link Budgets

2. Identification of the Commission proceeding in which the information was submitted or a description of the circumstances giving rise to the submission.

The above referenced Exhibits were submitted to the Commission in support of an STA request. These Exhibits were filed with the Office of Engineering and Technology on May 17, 2011. For additional information, please see STA File No. 0299-EX-ST-2011.

3. Explanation of the degree to which the information is commercial, or financial or contains a trade secret or is privileged.

The information requested to be kept confidential has significant commercial value. The details of the proposed tests may include trade secret information. The Commission has recognized that a trade secret is a “a secret, commercially valuable plan, formula, process, or device that is used for the making, preparing, compounding, or processing of trade commodities and that can be said to be the end product of either innovation or substantial effort.”¹ Applicant’s proposed tests and proprietary wireless applications using particular radio frequency equipment represent a “secret commercially valuable plan” within the meaning of this definition.

¹ Examination of Current Policy Concerning the Treatment of Confidential Information Submitted to the Commission, *Report and Order*, GC Docket No. 96-55, at para. 3, (released August 4, 1998) (defining “trade secrets” for purpose of Commission rules on confidential treatment).

4. Explanation of the degree to which the information concerns a service that is competitive.

The service and technology that are the subject of this Request for an STA have not yet been fully developed but are expected to be subject to fierce competition from third parties who are exploring comparable services and technology.

5. Explanation of how disclosure of the information could result in substantial competitive harm.

Disclosure of this information to the public would result in significant competitive harm. The technology and timeline for the proposed tests are sensitive and confidential information that provide valuable insight into potential business and technology plans and strategies. Such information could be used by competitors to inhibit vendor relationships and ultimately business expansion efforts. Further, public disclosure will jeopardize the value of the technologically innovative products under examination by enabling others to utilize Applicant's testing information to expeditiously develop similar products.

6. Identification of any measures taken by the requesting party to prevent unauthorized disclosure.

The information in Applicant's STA request set forth in Confidential Exhibits A-F has been carefully protected and kept confidential. Applicant has limited the number of people involved in the tests to only those on a "need to know" basis, and prohibited all third parties involved in the preliminary analysis from engaging in external communications until the conclusion of the proposed tests.

7. Identification of whether the information is available to the public and the extent of any previous disclosures of the information to any third parties.

The information contained in Exhibits A-F is not available to the public, and has only been disclosed to third parties pursuant to the restrictive safeguards described above.

8. Justification of the requested period of confidentiality

Applicant expects that confidential treatment is necessary for the length of the proposed test in order to protect Applicant's evolving business and technology strategies.

9. Any other information that would be useful in assessing whether this request should be submitted.

The information subject to this request for confidentiality should not be made available for public disclosure. There is nothing material that public review of this information would add to the Commission's analysis of Applicant's request for STA. STAs are not subject to the

mandatory 30-day Public Notice requirements of Section 309 of the Communications Act, 47 U.S. C. § 309(b). Further, STAs do not grant permanent rights to operate and do not permit the provision of commercial services to customers. See 47 C.F.R. § 5.3 (describing limited scope of permissible experimental services.)

Moreover, public disclosure of the sensitive information in Confidential Exhibits A-F of this STA request *after* the Commission has ruled on the Request is not necessary for the Commission to fulfill its regulatory responsibilities. By the terms of the Commission's Rules, all experimental licenses and STAs are nonexclusive and subject to the requirement that harmful interference may not be caused to any station operating in accordance with the Commission's Table of Allocations, 47 C.F.R. § 5.85(b) and (c), and that operations must cease in the event interference is detected. 47 C.F.R. § 5.117. As detailed in the Exhibits being filed concurrently herewith, there is virtually no risk of harmful interference to any other spectrum user.

In refining its rules for confidential treatment, the Commission recognized that "*with the exception of experimental licenses*, most information submitted in Title III licensing proceedings should be made publicly available."² Applicant submits that a grant of confidential treatment as requested would promote, not chill, further innovation in radiofrequency technologies and would thereby serve the public interest.

² *Id.* at para. 34; *see, e.g., Jeffery A. Knauss on Request for Inspection*, 11 FCC Rcd 10819 (1996) (given limited purpose of the experimental licenses, FOIA requester's concern regarding potential interference from equipment did not justify disclosure of confidential information in an experimental application).