

## MEMORANDUM

### ATTORNEY-CLIENT PRIVILEGED AND CONFIDENTIAL

TO: [Name of client] DATE:

*[If internal memo, addressed to a targeted, limited group of individuals reasonably likely to possess responsive documents]*

FROM: [Name of lawyer/firm]

SUBJECT: [*Case Name*]

- Preservation, disclosure and production of documents
- 

This document preservation notice concerns a lawsuit initiated by Company A ("A") against Corporation B ("B") generally relating to the Joint Development and License Agreement between A and B. A filed against B in federal court in [state], however that case has been transferred to the United States District Court for the Southern District of California on the same day the [state] case was transferred, B filed its own lawsuit against A and Company C alleging that, among other things, A and C stole trade secrets from B. We believe that the two cases will be consolidated but at present, there are two separate actions.

We believe that you may have records or information relating to these cases. This memo contains **important directions about preserving relevant records** and information. Make sure you understand them. This direction supersedes all record retention policies—even documents that would ordinarily be destroyed as a part of our routine records management program, if related, must be preserved. If you have any questions, call me or our outside counsel, [Attorney and Firm].

**It is very important that you retain all records that contain any information relating to these matters. These records must be retained until you are informed by Legal that the matters have been concluded and the records no longer need to be retained.**

*Records* means anything that stores information:

- In any medium - paper, electronic, video and audiotapes, etc., including e-mails and all other electronic files (see below).
- In any form - handwritten or typed, draft or final, desk or electronic calendars and phone slip notes created at any time, including records you create in the future, wherever maintained, whether on your computer, in your office, in departmental files, in a home office, in your car, or elsewhere.

You must retain all and any records that contain information that has any connection whatsoever to either matter or to any of the issues summarized below. Even if the relevant information is only a small part of the record, e.g., a bullet point in a business or strategic plan, you must retain the entire document. If you are uncertain about whether a record *relates to* this matter, retain it—you may also check with me to determine whether you need to retain it.

Specifically, these matters involve the following key elements:

- In February 2003, A and B entered an agreement to work together to develop an Application Specific Integrated Circuit ("ASIC") for use in a communications technology product. The relationship broke down and A and B now dispute what their rights are to certain intellectual property and the ASIC.

- B alleges that Company C violated a Nondisclosure Agreement that existed between B and A when C allegedly continued to work with A to develop the ASIC. B alleges it was excluded from any further dealings.
- B is also accusing A of trade secret misappropriation because C and A allegedly continued to work together after termination of the JDA to develop the ASIC; B alleges that its trade secrets and intellectual property were central to the development of the ASIC by A and C.

You must retain any record that relates to the foregoing topics. This list of topics may be modified or supplemented periodically once outside counsel and in-house counsel have determined the kinds of documents they're looking for.

If the specified records exist in paper form, you must keep them, without alteration, organized in the way that you would normally keep them for business purposes (for example, if you usually file them in folders, continue to do so). Unless your home office is your principal office, the records should be kept at a company location within the control of you and/or your department. Electronic records should generally be kept in electronic form. To the extent that any such records involve data that continually changes you may satisfy the requirement by printing and retaining a monthly summary. If electronic files were created which you did not retain a copy of, please let me know and we will determine how best to recover these electronic documents (including emails received and sent).

**If you believe this memo should be provided to anyone else, please let me know as soon as possible.** If you are aware of other individuals who are not on the distribution list who might have documents relating to this matter, including outside contractors or vendors,

please let me know and I will send them a copy of this memo. Please do not send the memo yourself; I want to keep a record of all individuals to whom the memo is sent.

**Please notify me promptly in the event that you are changing jobs within the Company or are leaving the Company.** I will make arrangements with you to appropriately preserve documents you are maintaining pursuant to this notice. Nothing in this notice shall be deemed an admission of relevancy or agreement to produce documents in connection with the pending litigation. **The Company hereby reserves the right to object to production of any and all documents covered by this notice on the basis of relevancy, privilege or any other reasonable grounds.** Set forth below are some important reminders about document creation and inquiries from third parties regarding these matters. Thank you for your important cooperation in these matters. Again, If you have any questions about these matters, please call \_\_\_\_\_.