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LIMITED and Q CYBER TECHNOLOGIES LIMITED

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8 UNITED STATES DISTRICT COURT
9 NORTHERN DISTRICT OF CALIFORNIA
10 OAKLAND DIVISION

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12 WHATSAPP INC., a Delaware corporation,
and FACEBOOK, INC., a Delaware
13 corporation,

14 Plaintiffs,

15 v.

16 NSO GROUP TECHNOLOGIES LIMITED
and Q CYBER TECHNOLOGIES LIMITED,

17 Defendants.
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Case No. 4:19-cv-07123-PJH

**DEFENDANTS NSO GROUP
TECHNOLOGIES LIMITED
AND Q CYBER TECHNOLOGIES
LIMITED'S MOTION FOR ENTRY OF
PROTECTIVE ORDER**

[Filed Concurrently with [Proposed] Order]

Date: September 9, 2020
Time: 9:00 a.m.
Ctrm: 3
Judge: Hon. Phyllis J. Hamilton

Action Filed: 10/29/2019

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23 **NOTICE OF MOTION**

24 **TO THE COURT AND ALL PARTIES AND THEIR COUNSEL OF RECORD:**

25 **PLEASE TAKE NOTICE** that, on September 9, 2020 at 9:00 a.m., or as soon thereafter
26 as the matter may be heard, Defendants NSO Group Technologies Limited (“NSO”) and Q Cyber
27 Technologies Limited (“Q Cyber” and, collectively with NSO, “Defendants”) will bring on for
28 hearing before the Honorable Phyllis J. Hamilton, Chief Judge for the United States District Court

for the Northern District of California, Oakland Division, Courtroom 3, located at 1301 Clay Street, Oakland, California, this motion for entry of a protective order in the form attached hereto as Exhibit A.

STATEMENT OF RELIEF SOUGHT

By this Motion, Defendants seek entry of a protective order in the form attached hereto as Exhibit A (the “Proposed Protective Order”). Defendants have recently obtained information that Defendants’ counsel believes is of great importance to the Court and Plaintiffs’ outside counsel in the orderly management of the case and the parties’ litigation of it. Unfortunately, unless there is a protective order in place, Defendants cannot disclose this information without violating their legal obligations. Although the parties have been attempting to reach agreement on a stipulated protective order to submit to the Court, those negotiations have not led to a stipulation. Accordingly, Defendants ask the Court to enter the Proposed Protective Order so that Defendants may share this information with the Court and with Plaintiffs’ outside counsel.

POINTS AND AUTHORITIES

The undersigned counsel represents to the Court that Defendants are in possession of information that is of considerable importance to the orderly administration of this case. Unfortunately, Defendants and their counsel cannot disclose it to Plaintiffs’ outside counsel without violating their legal obligations, unless there is an order in place that governs any disclosure.

Defendants have been working diligently with Plaintiffs to come to agreement on a stipulated protective order based on the Court’s Model Protective Order for Litigation Involving Patents, Highly Sensitive Confidential Information and/or Trade Secrets (the “Model Order”). The parties have been unable to reach agreement on a protective order thus far, however. After a conference of counsel in the afternoon of July 21, 2020, regarding various discovery matters, Plaintiffs’ counsel sent Defendants’ counsel a draft protective order with substantial changes (additions and deletions) to the Model Order at 4:48 p.m. on July 21, 2020. Defendants’ counsel immediately began analyzing Plaintiffs’ draft and conferring with their clients (who are located ten time zones away, in Israel). Defendants’ counsel sent a revised draft back to Plaintiffs’ counsel

on July 24, 2020. Defendants' counsel then followed up with Plaintiffs' counsel on July 28, July 29, and July 31, before receiving a new draft from Plaintiffs on July 31, 2020. In Plaintiffs' July 31, 2020 draft, Plaintiffs refused to accept most revisions proposed by Defendants, including certain requests by Defendants to accept language from the Model Order instead of modifications made by Plaintiffs. Consequently, Defendants' counsel believes that the parties will not be able to reach agreement quickly on a comprehensive protective order.

Accordingly, after receiving and analyzing Plaintiffs' July 31, 2020 draft, and eager to present this crucial new information to the Court and Plaintiffs' outside counsel, Defendants suggested entering into a simplified protective order, to remain in effect until such time as the parties could reach agreement on a more comprehensive order. Defendants' counsel prepared the Proposed Protective Order and sent to Plaintiffs' counsel on July 31, 2020, but Plaintiffs have thus far refused to stipulate to its entry.

Defendants will continue to work diligently with Plaintiffs to try to reach agreement on a more comprehensive Order that will supersede the attached Proposed Protective Order, but respectfully request that the Court approve the Proposed Protective Order to enable Defendants to disclose information that is of great importance to the orderly administration of this case. The attached Proposed Protective Order is based on the Model Order without the sections that are not relevant to the immediate circumstances. It includes the provisions necessary to allow Defendants' counsel to serve Plaintiffs with the information while seeking the Court's leave to file it under seal.

For the foregoing reasons, Defendants respectfully request that the Court enter the attached Proposed Protective Order immediately.

DATED: June 24, 2020

KING & SPALDING LLP

By: /s/ Joseph N. Akrotirianakis
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