

UNITED STATES DISTRICT COURT
DISTRICT OF CONNECTICUT

BATCHELAR,

Plaintiff,

v.

INTERACTIVE BROKERS, LLC *et al*,

Defendants.

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No. 3:15-CV-1836 (VLB)

July 26, 2019

ORDER ON MOTION FOR PROTECTIVE ORDER [DKT. 116]

The parties have presented to the Court a dispute about their proposed stipulated protective order which will serve as a Supplemental Protective Order, supplementing the Court's Standing Protective Order entered in this case on December 18, 2015 at ECF No. 5. The parties' briefing indicates that the issues have been narrowed to (1) whether Plaintiff's counsel should be permitted to use the information obtained from review of Defendants' source code, including testimony by individuals who have reviewed the source code, in a separate proceeding and (2) whether attorneys employed by or affiliated with the law firm of Plaintiff's counsel should be allowed to review Defendants' source code.

Accordingly, the Court issues the following protective order provisions. First, the Court's orders apply to this case and not to any other or subsequent proceeding pending before another court or adjudicator. The parties' Supplemental Protective Order shall include the following language under Paragraph 5(a)(ii) ("Scope"):

Accordingly, no Source Code Qualified Person, including any Expert, shall 1) divulge all or any portion of Defendant's Source Code or 2)

testify or advise any person in connection with Defendants' Source Code, disclosed pursuant to an order of this Court, in any separate matter, pre-litigation matter, action, investigation, mediation, arbitration or any other proceeding, except pursuant to an independent disclosure order of the court or other adjudicator presiding over such proceeding.

Second, the Court finds that attorneys employed by or affiliated with the law firm of Plaintiff's counsel who are working on this case may review Defendants' source code provided that they are working at the direction and under the supervision of an attorney of record in this case and they need to review the Defendants' source code to assist in the representation of the Plaintiff in and for this case. The parties' Supplemental Protective Order shall include the following language under Paragraph 3(b) ("Source Code Qualified Persons"):

"Source Code Qualified Persons" shall refer to Plaintiff's Agent(s), who have been retained by Plaintiff or its Outside Counsel of Record to assist Plaintiff in prosecuting this Action. Source Code Qualified Persons shall only include the following: (1) Outside Counsel of Record in this Action who have filed an appearance in this Action for Plaintiff, and office personnel, support staff (i.e., persons or entities that provide litigation support services), legal assistants, paralegals, and associates, who are employed by the same firm as that of Outside Counsel of Record in this Action to the extent necessary and solely to assist Outside Counsel of Record to prosecute Plaintiff's claims in this Action; (2) Outside Attorneys retained by Outside Counsel of Record to assist Outside Counsel of Record in prosecuting Plaintiff's claims in this Action, directly for Outside Counsel of Record in this Action who have filed an appearance in this Action for Plaintiff, solely to the extent necessary and exclusively to assist Outside Counsel of Record to prosecute Plaintiff's claims in this Action; and (3) Outside Consultants or Outside Experts (collectively, "Experts" or "Expert") retained by Outside Counsel of Record solely to the extent necessary and exclusively to assist Outside Counsel of Record to prosecute Plaintiff's claims in this Action. "Outside Consultants" herein shall refer to testifying and consulting experts. Each Source Code Qualified Person who needs access to Defendants' Source Code shall sign the

form that is attached as Exhibit A to the Standing Protective Order prior to disclosure of Defendant's Source Code.

The parties shall finalize and file a fully stipulated Supplemental Protective Order consistent herewith within 7 days.

IT IS SO ORDERED.

/s/
Hon. Vanessa L. Bryant
United States District Judge

Dated at Hartford, Connecticut: July 26, 2019.