

**SUPER AUDIO CD
CONFIDENTIALITY AND NON-DISCLOSURE AGREEMENT
FOR HIGHLY CONFIDENTIAL INFORMATION**

This Super Audio CD Confidentiality and Non-Disclosure Agreement for Highly Confidential Information ("the Agreement") is entered into this ____ day of _____ 2003, by and between

Koninklijke Philips Electronics N.V., having its registered office in Eindhoven, The Netherlands (hereinafter referred to as "Philips")

and

[_____] , having its registered office in [_____] (hereinafter referred to as "Recipient")

collectively hereinafter referred to as "the Parties".

WHEREAS, Philips and Sony have developed a new and revolutionary high-fidelity sound storage and reproduction system, which has been presented under the name "Super Audio CD System";

WHEREAS, Recipient has entered on even date into a Super Audio CD Player Patent License Agreement, in conjunction with a Super Audio CD Player Copy Protection Agreement (collectively hereinafter referred to as 'the Super Audio CD Agreements');

WHEREAS Recipient has received, under the Super Audio CD Player Patent License Agreement, the relevant parts of the Super Audio CD Standard Specifications marked as confidential in Exhibit I, which include technical know-how, trade secrets and other information of a confidential and/or proprietary nature relating to the Super Audio CD System;

WHEREAS Recipient wishes to receive additional parts of the Super Audio CD Standard Specifications relating to the Super Audio Copy Protection Technology, which parts are considered to be highly confidential and are marked as such in Exhibit I (hereinafter referred to as "Highly Confidential Information");

WHEREAS Philips is willing to disclose such Highly Confidential Information to Recipient, only for the purpose of a correct application by Recipient of the Super Audio CD Copy Protection Technology in the manufacture of Licensed Products as defined in the Super Audio CD Player Patent License Agreement (hereinafter referred to as 'the Authorised Purpose');

WHEREAS, Philips wishes to protect the highly confidential nature of the information relating to the Super Audio CD Copy Protection Technology;

NOW THEREFORE, in consideration of the mutual obligations and covenants hereinafter set forth, the Parties hereby agree as follows:

Article 1 - Definitions

1.01 Any capitalized term used in this Agreement, but not defined herein shall have the same meaning as set out in the Super Audio CD Agreements.

Article 2 - Obligations

- 2.01 Except as specifically provided for in the relevant Super Audio CD Agreements, Recipient:
- a) shall not copy, modify, create derivative works, disassemble, decompile or reverse engineer any portion of the Highly Confidential Information;
 - b) shall not transfer, disseminate or otherwise disclose the Super Audio CD Copy Protection Technology to any third party;
 - c) shall use the Highly Confidential Information only for the Authorized Purpose.

Article 3 - Highly Confidential Information, Disclosure and Use

- 3.01 Without prejudice to the provisions of Article 2, Recipient shall apply the following measures in order to protect the highly confidential nature of the Highly Confidential Information:
- (a) Recipient shall employ procedures for safeguarding Highly Confidential Information at least as rigorous as Recipient would employ for its own highly confidential information in the following manner:
 - (i) Recipient shall maintain on Recipient's premises a secure location (which may include electronic storage), in which all Highly Confidential Information shall be stored, that provides a level of security at least as high as Recipient applies to its own most highly confidential information;
 - (ii) any Highly Confidential Information stored in such a location shall be accessible only by Authorized Employees (as defined in Article 3.01 (b));

- (iii) Recipient shall keep a record of access to the Highly Confidential Information by Authorized Employees;
- (iv) as long as Highly Confidential Information is not in use, such information shall be stored in a locked safe at such secure location;
- (v) Recipient shall preclude any Authorized Employee (while such person is employed by Recipient) to whom Highly Confidential Information is disclosed, (1) during the period that such Authorized Employee has access to Highly Confidential Information and for a period of one year after the date such Authorized Employee had last accessed Highly Confidential Information, from being involved in the development (including, without limitation, designing and testing) of any other copy protection technology, provided that such Authorized Employee may engage in activities with regard to the Super Audio CD Copy Protection Technology which are solely for the purposes of the manufacture (or evaluation of the manufacture) of Licensed Products and provided further that such activities do not include the disclosure of the Highly Confidential Information to any individual or entity involved in the development/evaluation of any other copy protection technology; (2) during the period that such Authorized Employee has access to Highly Confidential Information and for a period of two years after the period during which such Authorized Employee had access to Highly Confidential Information, performing any services for any third party involved in the development/evaluation of any other copy protection technology, provided that such Authorized Employee may engage in activities with regard to Super Audio CD Copy Protection Technology which are solely for the purposes of the manufacture (or the evaluation of the manufacture) of Licensed Products and provided further that such activities do not include the disclosure of the Highly Confidential Information to any individual or entity involved in the development/evaluation of any other copy protection technology. Notwithstanding anything to the contrary contained herein, any limitations on future employment contained in this section (v) shall only apply to the extent permitted by applicable law.

- (b) Recipient may disseminate Highly Confidential Information only to the strictest minimum possible number of employees of Recipient that fulfil the following requirements (“Authorized Employee”):
 - (i) such person has an absolute need to know for such Highly Confidential Information in connection with the Authorized Purpose;
 - (ii) such person is bound in writing by obligations of confidentiality sufficient to protect the Highly Confidential Information in

accordance with the terms of this Agreement and who, prior to the disclosure of such Highly Confidential Information, has (i) been identified in writing by Recipient to Philips; and (ii) read and executed the acknowledgement attached as Exhibit II hereto (a copy of such executed acknowledgement to be sent to Philips).

- (c) During the term of each Authorized Employee's employment by Recipient, Recipient shall, at all times, cause such Authorized Employee to abide strictly by his/her obligations hereunder and, after the termination of his/her employment, Recipient shall use the same efforts to enforce the confidentiality obligations on such Authorized Employee as Recipient uses to enforce with respect to Recipient's own similarly confidential information.
- (d) Recipient shall make reasonable efforts to assist Philips, at Philips' reasonable expense, in relation to any claim, action, suit, proceeding, or litigation with respect to the unauthorized access by a former employee to information provided under this Agreement.
- (e) Notwithstanding anything to the contrary contained herein, Recipient shall not disseminate any Highly Confidential Information to more than 3 Authorized Employees, unless Recipient has notified Philips in advance of its intention to increase the number of Authorized Employees to an additional increment of up to 3 such employees. Recipient may make such notifications of additional increments of Authorized Employees without limit, but in doing so shall abide by the terms of Article 3.01 (b). Recipient may substitute another employee for a Authorized Employee only in the event of death, permanent or long-term disability or resignation or termination of the employment of an existing Authorized Employee or reassignment of an existing Authorized Employee to a substantially different responsibility that is not directly related to the Authorized Purpose. Recipient shall inform Philips in writing, prior to the substitution or addition of any Authorized Employee.
- (f) Upon Philips' request, Recipient shall provide Philips with a copy of the record of access to the Highly Confidential Information as referred to in section (a) (iii) above.

3.02 Under the Super Audio CD Player Copy Protection Agreement Recipient is liable to Philips and Third Party Beneficiaries for breaches of Article 3.01 of this Agreement. For the purpose of defining such liability, a series of substantially related breaches shall constitute a single material breach. A breach shall be "material" only if it has resulted in or is likely to result in commercially or technologically significant harm to Philips or if it threatens the integrity or security

of the Super Audio CD System. In addition, the following is a non-exclusive list of circumstances in which there is no material breach of Article 3.01 sections (a) through (e):

- a) if no Highly Confidential Information was released to a third party not permitted hereunder to have such information or could reasonably have been expected to have been released to such a third party as a result of the breach;
- b) if Recipient maintains an internal program to assure compliance with Article 3.01 (including a program to assure maintenance of confidentiality of information for purposes in addition to compliance with this Agreement), the breach was inadvertent or otherwise unintentional, and the breach did not have a material adverse effect on the integrity of security of the Super Audio CD System, or result in commercially or technologically significant harm to Philips;
- c) if Recipient brought the breach to Philips' attention in a timely manner and such breach did not have a material adverse effect on the integrity or security of the Super Audio CD System, or result in commercially or technologically significant harm to Philips.

3.04 Prior to initiating any claim for damages (including liquidated damages) under this Agreement, Philips shall give Recipient written notice and, to the extent curable, a reasonable opportunity to cure, based on the applicable circumstances.

Article 4 - Return of the Highly Confidential Information

4.01 Within 30 days after the expiration or termination of its Super Audio CD Agreements, Recipient will, at its expense, return to Philips all Highly Confidential Information in its possession or control to Philips at the address specified below:

Philips International B.V.
 Philips Intellectual Property & Standards
 Business Support Dept.
 Building WAH-2
 P.O. Box 220
 5600 AE Eindhoven
 The Netherlands

Upon such return, Recipient shall not retain copies or transcripts (in any form) of any portion of the Highly Confidential Information.

Article 5 - General

- 5.01 Severability. In the event that any provision of this Agreement would, in whole or in part, be determined by a competent court or administrative authority to be invalid, unenforceable or void for any reason, such determination shall affect only the portion of such provision determined invalid, unenforceable or void, and shall not affect in any way the remainder of such provision or any other provision of this Agreement, provided that, in such event, Philips shall have the right to terminate this Agreement by written notice to Recipient.
- 5.02 Waiver. Neither the failure nor the delay of either party to enforce any provision of this Agreement shall constitute a waiver of such provision or of the right of either party to enforce each and every provision of this Agreement.
- 5.03 Governing Law; Jurisdiction and Venue. This Agreement shall be governed by and construed in accordance with the laws of The State of New York.

Any dispute between the parties hereto in connection with this Agreement (including any question regarding its existence, validity or termination) shall be submitted to any state or federal courts in The State of New York, provided always that, in case Philips is the plaintiff, Philips may, alternatively and at its sole discretion, submit any such dispute either to the state or federal courts in the venue of Recipient's registered office, or to any state or federal court in a place where a breach under this Agreement has occurred or threatens to occur.

Recipient hereby irrevocably waives any objection to the jurisdiction, process and venue of any such court and to the effectiveness, execution and enforcement of any order or judgment (including, but not limited to, a default judgment) of any such court in relation to this Agreement, to the maximum extent permitted by the law of any jurisdiction, the laws of which might be claimed to be applicable regarding the effectiveness, enforcement or execution of such order or judgment.

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement by their duly authorized representatives on the date first written above.

KONINKLIJKE PHILIPS ELECTRONICS N.V.

[RECIPIENT]

 Name:
 Title:

 Name:
 Title:

List of technical documents relating to the Super Audio CD System

The following constitutes a complete list of all technical documents relevant to the Super Audio CD System and Super Audio CD Copy Protection Technology as are made available to under the respective Super Audio CD Agreements.

Technical Document	Classification	SACD Agreement wich gives access to this document
Part I: Physical Specification	Confidential	All SACD Agreements, and the Information Agreement
Part II: Audio Specification	Confidential	All SACD Agreements, and the Information Agreement
Part III – General: Copy Protection Specification	Confidential	All SACD Agreements, and the Information Agreement
Part III – Player: Copy Protection Specification	Highly Confidential	SACD Player Copy Protection Agreement
Part III – Disc: Copy Protection Specification	Highly Confidential	SACD Disc Copy Protection Agreement, and the Super Audio CD Disc Copy Protection Agreement for Glass Master and Stamper Manufacturers
Part III – LSI: Copy Protection Specification	Highly Confidential	SACD IC Manufacturing Agreement
LSI Pack, needed for LSI implementation	Highly Confidential	SACD IC Manufacturing Agreement
Super Audio CD copy protection test discs	Confidential	SACD Player Copy Protection Agreement
Super Audio CD Formatter (not a document, but a tool)	Highly Confidential	Super Audio CD Disc Copy Protection Agreement for Glass Master and Stamper Manufacturers

ACKNOWLEDGMENT BY AUTHORIZED EMPLOYEES

I, _____ (name of the employee), an employee of _____ (name of Recipient), acknowledge that I have been designated by Recipient as an "Authorized Employee" to gain on behalf of Recipient access to Highly Confidential Information of Koninklijke Philips Electronics N.V. ("Philips"), which Recipient is obligated to maintain strictly confidential under the terms of the Super Audio CD Player Patent License Agreement, in conjunction with a Super Audio CD Player Copy Protection Agreement and the Super Audio CD Confidentiality and Non-Disclosure Agreement for Highly Confidential Information (hereinafter referred to as the "Super Audio CD Agreement(s)") between Philips and Recipient. Capitalized terms used herein and not otherwise defined shall have the meanings ascribed thereto in the Super Audio CD Agreement(s). With respect to Highly Confidential Information, I acknowledge that the Super Audio CD Agreement(s) require Recipient to employ procedures for safeguarding Highly Confidential Information, such procedures to include, at a minimum:

- Recipient shall employ procedures for safeguarding Highly Confidential Information at least as rigorous as Recipient would employ for its own most highly confidential information, such procedures to include, at a minimum:
 - (1) Recipient shall maintain on its premises a secure location in which any and all Highly Confidential Information shall be stored;
 - (2) any Highly Confidential Information stored in such a location shall be accessible only by Authorized Employees;
 - (3) Recipient shall keep a record of access of the Highly Confidential Information by Authorized Employees; and
 - (4) as long as Highly Confidential Information is not in use, such information shall be stored in a locked safe at such secure location.

I further acknowledge that the Super Audio CD Agreements define as Highly Confidential Information that part of the Super Audio CD Standard Specifications which is marked as "Highly Confidential".

I further acknowledge that I have signed a prior written agreement with Recipient pursuant to which I have agreed to maintain the confidentiality of third party confidential information received by Recipient. I acknowledge that I am bound by such agreement to adhere to procedures established by Recipient to maintain the confidential nature of Confidential Information and Highly Confidential Information during my employment and two years after the termination of my employment with Recipient.

By signing below, I attest that I have read and understood this acknowledgement and accept to be bound by its terms.

Signed: _____

Copy to: Philips International B.V.

Standards
Name: _____
Date: _____

Philips Intellectual Property &

Legal Department
Building WAH-2
P.O. Box 220
5600 AE Eindhoven
The Netherlands

Reference copy

Filename: USA-SACDplayer-NDAHCI-Philips-02-2003
Directory: L:\licensing\IP&S WEBSITE LICENSE
DOCUMENTS\SACD Player (Philips ONLY)\Current versions
Template: C:\Documents and Settings\nlv10480\Application
Data\Microsoft\Templates\normal.dot
Title: SUPER AUDIO CD
Subject:
Author: Elles de Wit
Keywords:
Comments:
Creation Date: 24-01-2003 13:34:00
Change Number: 5
Last Saved On: 28-02-2003 11:39:00
Last Saved By: Elles de Wit
Total Editing Time: 28 Minutes
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Reference copy