

NOTE: CHANGES MADE BY THE COURT

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Ropers Majeski Kohn & Bentley  
A Professional Corporation  
Los Angeles

**UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA**

DECKERS OUTDOOR CORPORATION, a Delaware Corporation,,  
  
Plaintiff,  
  
v.  
  
MARILYN MODA, INC., a California Corporation; and DOES 1-10, inclusive,  
  
Defendants.

CASE NO. 14-cv-02648-MWF-PLA  
*Hon. Michael W. Fitzgerald – Ctrm 1600*

**DISCOVERY MATTER**

**ORDER RE STIPULATION FOR JOINT APPLICATION FOR ENTRY OF PROTECTIVE ORDER RE CONFIDENTIALITY**

Complaint Filed: April 8, 2014

The Court, having read and considered the Stipulation for Protective Order Re Confidentiality filed by the parties, finds that good cause appears for a Protective Order.

**IT IS HEREBY ORDERED THAT:**

**1. GOOD CAUSE STATEMENT**

Federal Rule of Civil Procedure Rule 26(c)(1)(G) permits the grant of a protective order upon a showing of good cause, and provides that the protection of a trade secret or other confidential commercial information is a proper basis for the issuance of a protective order.

1 This is a trademark infringement case. Resolution of the issues raised in the  
2 Complaint and any subsequent amended complaints or counter-complaints will  
3 require the disclosure and discovery of confidential, proprietary, or private  
4 information, such as, without limitation, marketing practices, sales, profit margin,  
5 discrete financial information and other matter that each respective party has taken  
6 reasonable steps to keep confidential. Special protection from public disclosure and  
7 from use for any purpose other than prosecuting this litigation may be warranted.

8 Disclosure or public availability of such information could give competitors  
9 of a party (whether a party in this case or a third party) an unfair advantage. If  
10 information is not maintained as confidential a competitor could use it against the  
11 respective party (to perhaps demean the party or its product) or could know the  
12 party's marketing strategies. Marketing and financial information warrants being  
13 excluded from access by the parties themselves, limited to attorneys' access. While  
14 Deckers is a publicly traded company, the defendants are not publicly traded. In  
15 any event, public financial information does not generally reveal cost and profit  
16 information for a particular product.

17 The parties acknowledge that this Order does not confer blanket protections  
18 on all disclosures or responses to discovery and that the protection it affords from  
19 public disclosure and use extends only to the limited information or items that are  
20 entitled to confidential treatment under the applicable legal principles. The parties  
21 further acknowledge, as set forth in Section 12.3, below, that this Stipulated  
22 Protective Order does not entitle them to file confidential information under seal;  
23 Civil Local Rule 79-5 sets forth the procedures that must be followed and the  
24 standards that will be applied when a party seeks permission from the court to file  
25 material under seal.

26 **2. DEFINITIONS**

27 **2.1 Challenging Party: a Party or Non-Party that challenges the**  
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1 designation of information or items under this Order.

2 2.2 “CONFIDENTIAL” Information or Items: information (regardless of  
3 how it is generated, stored or maintained) or tangible things that qualify for  
4 protection under Federal Rule of Civil Procedure 26(c).

5 2.3 Counsel: Counsel of Record for a party (as well as their support staff),  
6 but not an in-house counsel.

7 2.4 Designating Party: a Party or Non-Party that designates information or  
8 items that it produces in disclosures or in responses to discovery as  
9 “CONFIDENTIAL” or “CONFIDENTIAL – ATTORNEYS’ EYES ONLY.”

10 2.5 Material: all items or information, regardless of the medium or manner  
11 in which it is generated, stored, or maintained (including, among other things,  
12 testimony, transcripts, and tangible things), that are produced or generated in  
13 disclosures or responses to discovery in this matter.

14 2.6 Expert: a person with specialized knowledge or experience in a matter  
15 pertinent to the litigation who (1) has been retained by a Party or its counsel to  
16 serve as an expert witness or as a consultant in this action, (2) is not a past or  
17 current employee of a Party or of a Party’s competitor, and (3) at the time of  
18 retention, is not anticipated to become an employee of a Party or of a Party’s  
19 competitor.

20 2.7 “CONFIDENTIAL – ATTORNEYS’ EYES ONLY” Information or  
21 Items: extremely sensitive “Confidential Information or Items,” disclosure of which  
22 to another Party or Non-Party would create a substantial risk of serious harm that  
23 could not be avoided by less restrictive means.

24 2.8 Non-Party: any natural person, partnership, corporation, association, or  
25 other legal entity not named as a Party to this action.

26 2.9 Party: any party to this action, including all of its officers, directors, in-  
27 house counsel, employees, consultants, retained experts, and Counsel (and their  
28 support staffs).

1           2.10 Producing Party: a Party or Non-Party that produces Material in this  
2 action.

3           2.11 Professional Vendors: persons or entities that provide litigation  
4 support services (e.g., photocopying, videotaping, translating, preparing exhibits or  
5 demonstrations, and organizing, storing, or retrieving data in any form or medium)  
6 and their employees and subcontractors.

7           2.12 Protected Material: any Disclosure or Discovery Material that is  
8 designated as “CONFIDENTIAL,” or as “CONFIDENTIAL – ATTORNEYS’  
9 EYES ONLY.”

10          2.13 Receiving Party: a Party that receives Disclosure or Discovery  
11 Material from a Producing Party.

12           **3. SCOPE**

13           The protections conferred by this Stipulation and Order cover not only  
14 Protected Material (as defined above), but also (1) any information copied or  
15 extracted from Protected Material; (2) all copies, excerpts, summaries, or  
16 compilations of Protected Material; and (3) any testimony, conversations, or  
17 presentations by Parties or their Counsel that might reveal Protected Material.  
18 However, the protections conferred by this Stipulation and Order do not cover the  
19 following information: (a) any information that is in the public domain at the time  
20 of disclosure to a Receiving Party or becomes part of the public domain after its  
21 disclosure to a Receiving Party as a result of publication not involving a violation  
22 of this Order, including becoming part of the public record through trial or  
23 otherwise; and (b) any information known to the Receiving Party prior to the  
24 disclosure or obtained by the Receiving Party after the disclosure from a source  
25 who obtained the information lawfully and under no obligation of confidentiality to  
26 the Designating Party. Any use of Protected Material at trial shall be governed by a  
27 separate agreement or order.  
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1     **4. DURATION**

2           Even after final disposition of this litigation, the confidentiality obligations  
3 imposed by this Order shall remain in effect until a Designating Party agrees  
4 otherwise in writing or a court order otherwise directs. Final disposition shall be  
5 deemed to be the later of (1) dismissal of all claims and defenses in this action, with  
6 or without prejudice; and (2) final judgment herein after the completion and  
7 exhaustion of all appeals, re-hearings, remands, trials, or reviews of this action,  
8 including the time limits for filing any motions or applications for extension of time  
9 pursuant to applicable law.

10           Notwithstanding anything to the contrary, this Order shall not prevent or  
11 preclude the admission of Protected Material in open court at trial unless the Court  
12 makes a separate order or excludes certain persons from the courtroom.

13     **5. DESIGNATING PROTECTED MATERIAL**

14           5.1     Exercise of Restraint and Care in Designating Material for Protection.

15           Each Party or Non-Party that designates information or items for protection under  
16 this Order must take care to limit any such designation to specific material that  
17 qualifies under the appropriate standards. For example, information that was  
18 previously made public shall not be designated confidential. To the extent it is  
19 practical to do so, the Designating Party must designate for protection only those  
20 parts of material, documents, items, or oral or written communications that qualify  
21 so that other portions of the material, documents, items, or communications for  
22 which protection is not warranted are not swept unjustifiably within the ambit of  
23 this Order.

24           Mass, indiscriminate, or routinized designations are prohibited. Designations  
25 that are shown to be clearly unjustified or that have been made for an improper  
26 purpose (e.g., to unnecessarily encumber or retard the case development process or  
27 to impose unnecessary expenses and burdens on other parties) expose the  
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1 Designating Party to sanctions.

2 If it comes to a Designating Party’s attention that information or items that it  
3 designated for protection do not qualify for protection at all or do not qualify for the  
4 level of protection initially asserted, that Designating Party must promptly notify all  
5 other parties that it is withdrawing the mistaken designation.

6 5.2 Manner and Timing of Designations. Except as otherwise provided in  
7 this Order (see, e.g., second paragraph of section 5.2(a) below), or as otherwise  
8 stipulated or ordered, Disclosure or Discovery

9 Material that qualifies for protection under this Order must be clearly so  
10 designated before the material is disclosed or produced.

11 Designation in conformity with this Order requires:

12 (a) for information in documentary form (e.g., paper or electronic  
13 documents, but excluding transcripts of depositions or other pretrial or trial  
14 proceedings), that the Producing Party affix the legend “CONFIDENTIAL” or  
15 “CONFIDENTIAL – ATTORNEYS’ EYES ONLY” each page that contains  
16 protected material. If only a portion or portions of the material on a page qualifies  
17 for protection, the Producing Party also must clearly identify the protected  
18 portion(s) (e.g., by making appropriate markings in the margins) and must specify,  
19 for each portion, the level of protection being asserted.

20 A Party or Non-Party that makes original documents or materials available  
21 for inspection need not designate them for protection until after the inspecting Party  
22 has indicated which material it would like copied and produced. During the  
23 inspection and before the designation, all of the material made available for  
24 inspection shall be deemed “CONFIDENTIAL – ATTORNEYS’ EYES ONLY.”  
25 After the inspecting Party has identified the documents it wants copied and  
26 produced, the Producing Party must determine which documents, or portions

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1 thereof, qualify for protection under this Order. Then, before producing the  
2 specified documents, the Producing Party must affix the appropriate legend  
3 (“CONFIDENTIAL” or “CONFIDENTIAL – ATTORNEYS’ EYES ONLY” ) to  
4 each page that contains Protected Material. If only a portion or portions of the  
5 material on a page qualifies for protection, the Producing Party also must clearly  
6 identify the protected portion(s) (e.g., by making appropriate markings in the  
7 margins) and must specify, for each portion, the level of protection being asserted.

8 (b) for testimony given in deposition or in other pretrial or trial  
9 proceedings, that the Designating Party identify on the record, before the close of  
10 the deposition, hearing, or other proceeding, all protected testimony and specify the  
11 level of protection being asserted. In addition, counsel for either party may, at the  
12 commencement of , during, or upon completion of the deposition, temporarily  
13 designate the entire deposition as “CONFIDENTIAL” or “CONFIDENTIAL –  
14 ATTORNEYS’ EYES ONLY” provided, however, that where such an initial  
15 designation has been made, the designating party, within fifteen (15) days after  
16 receipt of the final transcript, shall mark as “CONFIDENTIAL” or  
17 “CONFIDENTIAL - ATTORNEYS’ EYES ONLY” those pages of the transcript as  
18 such party shall then deem Confidential Information (the confidential designation  
19 of all remaining pages being rescinded after such period), and shall notify the other  
20 party in writing which pages are deemed Confidential Information. In the event  
21 that such notice is not sent within said fifteen (15) days of the receipt of the  
22 transcript, no portion of the deposition shall thereafter be confidential unless the  
23 designating party thereafter notifies the other party that the failure to timely  
24 designate occurred by oversight, in accordance with Section 5.3.

25 Parties shall give the other parties notice if they reasonably expect a  
26 deposition, hearing or other proceeding to include Protected Material so that the  
27 other parties can ensure that only authorized individuals who have signed the  
28 “Acknowledgment and Agreement to Be Bound” (Exhibit A) are present at those

1 proceedings. The use of a document as an exhibit at a deposition shall not in any  
2 way affect its designation as “CONFIDENTIAL” or “CONFIDENTIAL –  
3 ATTORNEYS’ EYES ONLY.”

4 Transcripts containing Protected Material shall have an obvious legend on  
5 the title page that the transcript contains Protected Material, and the title page shall  
6 be followed by a list of all pages (including line numbers as appropriate) that have  
7 been designated as Protected Material and the level of protection being asserted by  
8 the Designating Party. The Designating Party shall inform the court reporter of  
9 these requirements. Any transcript that is prepared before the expiration of a 21-day  
10 period for designation shall be treated during that period as if it had been designated  
11 “CONFIDENTIAL – ATTORNEYS’ EYES ONLY” in its entirety unless  
12 otherwise agreed. After the expiration of that period, the transcript shall be treated  
13 only as actually designated.

14 (c) for information produced in some form other than documentary and  
15 for any other tangible items, that the Producing Party affix in a prominent place on  
16 the exterior of the container or containers in which the information or item is stored  
17 the legend “CONFIDENTIAL” or “CONFIDENTIAL – ATTORNEYS’ EYES  
18 ONLY. If only a portion or portions of the information or item warrant protection,  
19 the Producing Party, to the extent practicable, shall identify the protected portion(s)  
20 and specify the level of protection being asserted.

21 5.3 Inadvertent Failures to Designate. If timely corrected, an inadvertent  
22 failure to designate Confidential Information or items does not, standing alone,  
23 waive the Designating Party’s right to secure protection under this Order for such  
24 material. Promptly upon realizing an inadvertent failure to designate, the  
25 Designating Party shall give notice and correct the failure. Upon timely correction  
26 of a designation, the Receiving Party must make reasonable efforts to (i) assure that  
27 the material is treated in accordance with the provisions of this Order and (ii) have  
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1 any person that has received the Confidential Information not further disclose or  
2 use it for any purpose.

3 **6. CHALLENGING CONFIDENTIALITY DESIGNATIONS**

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5 6.1 Timing of Challenges. Any Party or Non-Party may challenge a  
6 designation of confidentiality at any time. Unless a prompt challenge to a  
7 Designating Party’s confidentiality designation is necessary to avoid foreseeable,  
8 substantial unfairness, unnecessary economic burdens, or a significant disruption or  
9 delay of the litigation, a Party does not waive its right to challenge a confidentiality  
10 designation by electing not to mount a challenge promptly after the original  
11 designation is disclosed.

12 6.2 Meet-and-Confer. The Challenging Party shall initiate the dispute  
13 resolution process by providing written notice of each designation it is challenging  
14 and describing the basis for each challenge. The parties shall attempt to resolve  
15 each challenge in good faith and must begin the process by meeting and conferring  
16 in accordance with Local Rule 37-1. In conferring, the Challenging Party must  
17 explain the basis for its belief that the confidentiality designation was not proper  
18 and must give the Designating Party an opportunity to review the designated  
19 material, to reconsider the circumstances, and, if no change in designation is  
20 offered, to explain the basis for the chosen designation. A Challenging Party may  
21 proceed to the next stage of the challenge process only if it has engaged in this meet  
22 and confer process first or establishes that the Designating Party is unwilling to  
23 participate in the meet and confer process in a timely manner.

24 6.3 Judicial Intervention. If the Parties cannot resolve a challenge without  
25 court intervention, the Challenging Party may proceed with a motion under Local  
26 Rule 37 (and in compliance with Civil Local Rule 79-5, if applicable). Each such  
27 motion must be accompanied by a competent declaration affirming that the movant  
28 has complied with the meet and confer requirements imposed in the preceding

1 paragraph. Frivolous challenges and those made for an improper purpose (e.g., to  
2 harass or impose unnecessary expenses and burdens on other parties) may expose  
3 the Challenging Party to sanctions. All parties shall continue to afford the material  
4 in question the level of protection to which it is entitled under the Producing Party's  
5 designation until the court rules on the challenge. If a motion challenging  
6 designation is not filed within sixty (60) days after the parties' Local Rule 37  
7 meeting (but no later than the last date for discovery motions to be heard) the  
8 material at issue will remain as designated throughout the case.

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10 **7. ACCESS TO AND USE OF PROTECTED MATERIAL**

11 7.1 Basic Principles. A Receiving Party may use Protected Material that is  
12 disclosed or produced by another Party or by a Non-Party in connection with this  
13 case only for prosecuting, defending, or attempting to settle this litigation, and for  
14 no other purpose. Such Protected Material may be disclosed only to the categories  
15 of persons and under the conditions described in this Order. When the litigation has  
16 been terminated, a Receiving Party must comply with the provisions of section 15  
17 below (FINAL DISPOSITION).

18 Protected Material must be stored and maintained by a Receiving Party at a  
19 location and in a secure manner that ensures that access is limited to the persons  
20 authorized under this Order.

21 7.2 Disclosure of "CONFIDENTIAL" Information or Items. Unless  
22 otherwise ordered by the court or permitted in writing by the Designating Party, a  
23 Receiving Party may disclose any information or item designated  
24 "CONFIDENTIAL" only to:

25 (a) the Receiving Party's Counsel in this action, as well as employees  
26 of said Counsel to whom it is reasonably necessary to disclose the information for  
27 this litigation;

28 (b) the officers, directors, and employees (including In-House

1 Counsel) of the Receiving Party to whom disclosure is reasonably necessary for this  
2 litigation;

3 (c) Experts (as defined in this Order) of the Receiving Party to whom  
4 disclosure is reasonably necessary for this litigation and who have signed the  
5 “Acknowledgment and Agreement to Be Bound” (Exhibit A);

6 (d) the court and its personnel;

7 (e) court reporters and their staff, professional jury or trial consultants,  
8 and Professional Vendors to whom disclosure is reasonably necessary for this  
9 litigation.

10 (f) during their depositions, witnesses in the action (other than one  
11 described in subparagraph 7.2(g) below) to whom disclosure is reasonably  
12 necessary and who have signed the “Acknowledgment and Agreement to Be  
13 Bound” (Exhibit A), **unless otherwise agreed by the Designating Party or**  
14 **ordered by the court.** Pages of transcribed deposition testimony or exhibits to  
15 depositions that reveal Protected Material must be separately bound by the court  
16 reporter and may not be disclosed to anyone except as permitted under this  
17 Stipulated Protective Order.

18 (g) the author or recipient of a document containing the information or  
19 a custodian or other person who otherwise possessed or knew the information.

20 7.3 **Disclosure of “CONFIDENTIAL – ATTORNEYS’ EYES ONLY”**  
21 **Information or Items.** Unless otherwise ordered by the court or permitted in writing  
22 by the Designating Party, a Receiving Party may disclose any information or item  
23 designated “CONFIDENTIAL – ATTORNEYS’ EYES ONLY” only to:

24 (a) the Receiving Party’s Counsel in this action, as well as employees  
25 of said Counsel to whom it is reasonably necessary to disclose the information for  
26 this litigation;

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1 (b) Experts of the Receiving Party (1) to whom disclosure is  
2 reasonably necessary for this litigation, (2) who have signed the “Acknowledgment  
3 and Agreement to Be Bound” (Exhibit A);

4 (c) the court and its personnel;

5 (d) court reporters and their staff, professional jury or trial  
6 consultants,<sup>1</sup> and Professional Vendors to whom disclosure is reasonably necessary  
7 for this litigation; and

8 (e) the author or recipient of a document containing the information or  
9 a custodian or other person who otherwise possessed or knew the information.

10 **8. PROTECTED MATERIAL SUBPOENAED OR ORDERED**  
11 **PRODUCED IN OTHER LITIGATION**

12 If a Party is served with a subpoena or a court order issued in other litigation  
13 that compels disclosure of any information or items designated in this action as  
14 “CONFIDENTIAL” or “CONFIDENTIAL – ATTORNEYS’ EYES ONLY” that  
15 Party must:

16 (a) promptly notify in writing the Designating Party. Such notification shall  
17 include a copy of the subpoena or court order;

18 (b) promptly notify in writing the party who caused the subpoena or order to  
19 issue in the other litigation that some or all of the material covered by the subpoena  
20 or order is subject to this Protective Order. Such notification shall include a copy of  
21 this Stipulated Protective Order; and

22 (c) cooperate with respect to all reasonable procedures sought to be pursued  
23 by the Designating Party whose Protected Material may be affected.

24 If the Designating Party timely seeks a protective order, the Party served with  
25 the subpoena or court order shall not produce any information designated in this  
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27 <sup>1</sup> The parties may wish to allow disclosure of information not only to professional jury or trial consultants, but  
28 also to mock jurors, to further trial preparation. In that situation, the parties may wish to draft a simplified,  
precisely tailored Undertaking for mock jurors to sign.

1 action as “CONFIDENTIAL” or “CONFIDENTIAL – ATTORNEYS’ EYES  
2 ONLY” before a determination by the court from which the subpoena or order  
3 issued, unless the Party has obtained the Designating Party’s permission. The  
4 Designating Party shall bear the burden and expense of seeking protection in that  
5 court of its confidential material – and nothing in these provisions should be  
6 construed as authorizing or encouraging a Receiving Party in this action to disobey  
7 a lawful directive from another court. Nothing in this court shall be construed as  
8 authorizing a party to disobey a lawful subpoena issued in another action.

9 **9. NON-PARTY’S PROTECTED MATERIAL SOUGHT TO BE**  
10 **PRODUCED IN THIS LITIGATION**

11 (a) The terms of this Stipulation and any Order that issues on this  
12 Stipulation are applicable to information produced by a Non-Party in this action and  
13 designated as “CONFIDENTIAL” or “CONFIDENTIAL – ATTORNEYS’ EYES  
14 ONLY.” Such information produced by Non-Parties in connection with this  
15 litigation is protected by the remedies and relief provided by this Order. Nothing in  
16 these provisions should be construed as prohibiting a Non-Party from seeking  
17 additional protections.

18 (b) In the event that a Party is required, by a valid discovery request, to  
19 produce a Non-Party’s confidential information in its possession, and the Party is  
20 subject to an agreement with the Non-Party not to produce the Non-Party’s  
21 confidential information, then the Party shall:

22 1. promptly notify in writing the Requesting Party and the Non-  
23 Party that some or all of the information requested is subject to a confidentiality  
24 agreement with a Non-Party;

25 2. promptly provide the Non-Party with a copy of the Stipulated  
26 Protective Order in this litigation, the relevant discovery request(s), and a  
27 reasonably specific description of the information requested; and  
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1                   3. make the information requested available for inspection by the  
2 Non-Party.

3           (c) If the Non-Party fails to object or seek a protective order from this  
4 court within 14 days of receiving the notice and accompanying information, the  
5 Receiving Party may produce the Non-Party's confidential information responsive  
6 to the discovery request. If the Non-Party timely seeks a protective order, the  
7 Receiving Party shall not produce any information in its possession or control that  
8 is subject to the confidentiality agreement with the Non-Party before a  
9 determination by the court. Absent a court order to the contrary, the Non-Party  
10 shall bear the burden and expense of seeking protection in this court of its Protected  
11 Material.

12           **10. UNAUTHORIZED DISCLOSURE OF PROTECTED MATERIAL**

13           If a Receiving Party learns that, by inadvertence or otherwise, it has disclosed  
14 Protected Material to any person or in any circumstance not authorized under this  
15 Stipulated Protective Order, the Receiving Party must immediately (a) notify in  
16 writing the Designating Party of the unauthorized disclosures, (b) use its best  
17 efforts to retrieve all unauthorized copies of the Protected Material, (c) inform the  
18 person or persons to whom unauthorized disclosures were made of all the terms of  
19 this Order, and (d) request such person or persons to execute the "Acknowledgment  
20 and Agreement to Be Bound" that is attached hereto as Exhibit A. Notwithstanding  
21 compliance with this provision, the Producing Party apply to the Court for relief  
22 and appropriate sanctions to the Receiving Party.

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24           **11. INADVERTENT PRODUCTION OF PRIVILEGED OR OTHERWISE**  
25 **PROTECTED MATERIAL**

26           When a Producing Party gives notice to Receiving Parties that certain  
27 inadvertently produced material is subject to a claim of privilege or other  
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1 protection, the obligations of the Receiving Parties are those set forth in Federal  
2 Rule of Civil Procedure 26(b)(5)(B). This provision is not intended to modify  
3 whatever procedure may be established in an e-discovery order that provides for  
4 production without prior privilege review. Pursuant to Federal Rule of Evidence  
5 502(d) and (e), insofar as the parties reach an agreement on the effect of disclosure  
6 of a communication or information covered by the attorney-client privilege or work  
7 product protection, the parties may incorporate their agreement in the stipulated  
8 protective order submitted to the court.

9 **12. MISCELLANEOUS**

10 12.1 Right to Further Relief. Nothing in this Order abridges the right of any  
11 person to seek its modification by the court in the future.

12 12.2 Right to Assert Other Objections. By stipulating to the entry of this  
13 Protective Order no Party waives any right it otherwise would have to object to  
14 disclosing or producing any information or item on any ground not addressed in  
15 this Stipulated Protective Order. Similarly, no Party waives any right to object on  
16 any ground to use in evidence of any of the material covered by this Protective  
17 Order.

18 12.3 Filing Protected Material. Without written permission from the  
19 Designating Party or a court order secured after appropriate notice to all interested  
20 persons, a Party may not file in the public record in this action any Protected  
21 Material. A Party that seeks to file under seal any Protected Material must comply  
22 with Civil Local Rule 79-5. Protected Material may only be filed under seal  
23 pursuant to a court order authorizing the sealing of the specific Protected Material  
24 at issue. Pursuant to Civil Local Rule 79-5, a sealing order will issue only upon a  
25 request establishing that the Protected Material at issue is privileged, protectable as  
26 a trade secret, or otherwise entitled to protection under the law. If a Receiving  
27 Party's request to file Protected Material under seal pursuant to Civil Local Rule 79-  
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1 5(d) is denied by the court, then the Receiving Party may file the Protected Material  
2 in the public record pursuant to Civil Local Rule 79-5(e) unless otherwise  
3 instructed by the court.

4 **13. FINAL DISPOSITION**

5 Within 60 days after the final disposition of this action, as defined in  
6 paragraph 4, each Receiving Party must return all Protected Material to the  
7 Producing Party or destroy such material. As used in this subdivision, “all Protected  
8 Material” includes all copies, abstracts, compilations, summaries, and any other  
9 format reproducing or capturing any of the Protected Material. Whether the  
10 Protected Material is returned or destroyed, the Receiving Party must submit a  
11 written certification to the Producing Party (and, if not the same person or entity, to  
12 the Designating Party) by the 60-day deadline that (1) identifies (by category,  
13 where appropriate) all the Protected Material that was returned or destroyed and (2)  
14 affirms that the Receiving Party has not retained any copies, abstracts,  
15 compilations, summaries or any other format reproducing or capturing any of the  
16 Protected Material. Notwithstanding this provision, Counsel are entitled to retain an  
17 archival copy of all pleadings, motion papers, trial, deposition, and hearing  
18 transcripts, legal memoranda, correspondence, deposition and trial exhibits, expert  
19 reports, attorney work product, and consultant and expert work product, even if  
20 such materials contain Protected Material. Any such archival copies that contain or  
21 constitute Protected Material remain subject to this Protective Order as set forth in  
22 Section 4 (DURATION).

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24 **IT IS SO ORDERED.**

25 Dated: July 29, 2014



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Hon. Paul L. Abrams  
United States Magistrate Judge



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**EXHIBIT A**

**ACKNOWLEDGMENT AND AGREEMENT TO BE BOUND**

I, \_\_\_\_\_, with an address in

\_\_\_\_\_

declare that I have read in its entirety and understand the Stipulated Protective Order that was issued by the United States District Court for the Central District of California on \_\_\_\_\_ in the case of *Deckers Outdoor Corporation v. Marilyn Moda, Inc., et al.*, Case No. 14-cv-02648-MWF-PLA.

I agree to comply with and to be bound by all the terms of this Stipulated Protective Order, and I understand and acknowledge that failure to so comply could expose me to sanctions and punishment in the nature of contempt. I solemnly promise that I will not disclose in any manner any information or item that is subject to this Stipulated Protective Order to any person or entity except in strict compliance with the provisions of this Order.

I further agree to submit to the jurisdiction of the United States District Court for the Central District of California for the purpose of enforcing the terms of this Stipulated Protective Order, even if such enforcement proceedings occur after termination of this action.

I declare under penalty of perjury that the forgoing is true and correct.

Executed \_\_\_\_\_ at \_\_\_\_\_

Signature: \_\_\_\_\_

Printed name: \_\_\_\_\_

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*Submitted By:*

ARNOLD E. SKLAR (SBN 051595)  
TIM M. AGAJANIAN (SBN 130508)  
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By: /s/ Arnold E. Sklar  
ARNOLD E. SKLAR