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11 Attorneys for Plaintiff

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

14 STAR FABRICS, INC., a California
 15 Corporation,

16 Plaintiff,

17 v.

18 IDEELI, INC., a Delaware Corporation;
 19 et. al.;

20 Defendants.

Case No.: CV14-02968- MWF-ASx
Magistrate Judge Alka Sagar Presiding
 [DISCOVERY MATTER]

**STIPULATED PROTECTIVE
 ORDER**

1 discovery materials, to adequately protect information the parties are entitled to keep
2 confidential, to ensure that the parties are permitted reasonable necessary uses of such
3 material in preparation for and in the conduct of trial, to address their handling at the
4 end of the litigation, and serve the ends of justice, a protective order for such
5 information is justified in this matter. It is the intent of the parties that information
6 will not be designated as confidential or highly confidential for tactical reasons and
7 that nothing be so designated without a good faith belief that it has been maintained in
8 a confidential, non-public manner, and there is good cause why it should not be part of
9 the public record of this case.

10
11 2. DEFINITIONS

12 2.1 Action: the federal law suit titled Star Fabrics, Inc. v. Ideeli, Inc., *et al.*,
13 CV14-02968-MWF-AS.

14 2.2 Challenging Party: a Party or Non-Party that challenges the designation
15 of information or items under this Order.

16 2.3 “CONFIDENTIAL” Information or Items: information (regardless of
17 how it is generated, stored or maintained) or tangible things that qualify for protection
18 under Federal Rule of Civil Procedure 26(c), and as specified above in the Good
19 Cause Statement.

20 2.4 Counsel: Outside Counsel of Record and House Counsel (as well as their
21 support staff).

22 2.5 Designating Party: a Party or Non-Party that designates information or
23 items that it produces in disclosures or in responses to discovery as
24 “CONFIDENTIAL.”

25 2.6 Disclosure or Discovery Material: all items or information, regardless of
26 the medium or manner in which it is generated, stored, or maintained (including,
27

1 among other things, testimony, transcripts, and tangible things), that are produced or
2 generated in disclosures or responses to discovery in this matter.

3 2.7 Expert: a person with specialized knowledge or experience in a matter
4 pertinent to the litigation who has been retained by a Party or its counsel to serve as an
5 expert witness or as a consultant in this Action.

6 2.8 House Counsel: attorneys who are employees of a party to this Action.
7 House Counsel does not include Outside Counsel of Record or any other outside
8 counsel.

9 2.9 Non-Party: any natural person, partnership, corporation, association, or
10 other legal entity not named as a Party to this action.

11 2.10 Outside Counsel of Record: attorneys who are not employees of a party
12 to this Action but are retained to represent or advise a party to this Action and have
13 appeared in this Action on behalf of that party or are affiliated with a law firm which
14 has appeared on behalf of that party, and includes support staff.

15 2.11 Party: any party to this Action, including all of its officers, directors,
16 employees, consultants, retained experts, and Outside Counsel of Record (and their
17 support staffs).

18 2.12 Producing Party: a Party or Non-Party that produces Disclosure or
19 Discovery Material in this Action.

20 2.13 Professional Vendors: persons or entities that provide litigation support
21 services (e.g., photocopying, videotaping, translating, preparing exhibits or
22 demonstrations, and organizing, storing, or retrieving data in any form or medium)
23 and their employees and subcontractors.

24 2.14 Protected Material: any Disclosure or Discovery Material that is
25 designated as “CONFIDENTIAL,” “HIGHLY CONFIDENTIAL,” or “HIGHLY
26 CONFIDENTIAL – ATTORNEY’S EYES ONLY.”

1 2.15 Receiving Party: a Party that receives Disclosure or Discovery Material
2 from a Producing Party.

3 2.16 HIGHLY CONFIDENTIAL or HIGHLY CONFIDENTIAL
4 ATTORNEY'S EYES ONLY information or items: any information (regardless of
5 how it is generated, stored or maintained) or tangible things that qualify for protection
6 under Federal Rule of Civil Procedure 26(c), and as specified above in the Good
7 Cause Statement for which disclosure to another party would result in harm to the
8 Designating Party.

9
10 3. SCOPE

11 The protections conferred by this Stipulation and Order cover not only
12 Protected Material (as defined above), but also (1) any information copied or extracted
13 from Protected Material; (2) all copies, excerpts, summaries, or compilations of
14 Protected Material; and (3) any testimony, conversations, or presentations by Parties
15 or their Counsel that might reveal Protected Material.

16 Any use of Protected Material at trial shall be governed by the orders of the trial
17 judge. This Order does not govern the use of Protected Material at trial.

18
19 4. DURATION

20 Even after final disposition of this litigation, the confidentiality obligations
21 imposed by this Order shall remain in effect until a Designating Party agrees
22 otherwise in writing or a court order otherwise directs. Final disposition shall be
23 deemed to be the later of (1) dismissal of all claims and defenses in this Action, with
24 or without prejudice; and (2) final judgment herein after the completion and
25 exhaustion of all appeals, rehearings, remands, trials, or reviews of this Action,
26 including the time limits for filing any motions or applications for extension of time
27 pursuant to applicable law.

1
2 5. DESIGNATING PROTECTED MATERIAL

3 5.1 Exercise of Restraint and Care in Designating Material for Protection.

4 Each Party or Non-Party that designates information or items for protection under this
5 Order must take care to limit any such designation to specific material that qualifies
6 under the appropriate standards. The Designating Party must designate for protection
7 only those parts of material, documents, items, or oral or written communications that
8 qualify so that other portions of the material, documents, items, or communications
9 for which protection is not warranted are not swept unjustifiably within the ambit of
10 this Order.

11 Mass, indiscriminate, or routinized designations are prohibited. Designations
12 that are shown to be clearly unjustified or that have been made for an improper
13 purpose (e.g., to unnecessarily encumber the case development process or to impose
14 unnecessary expenses and burdens on other parties) may expose the Designating Party
15 to sanctions.

16 If it comes to a Designating Party's attention that information or items that it
17 designated for protection do not qualify for protection, that Designating Party must
18 promptly notify all other Parties that it is withdrawing the inapplicable designation.

19 5.2 Manner and Timing of Designations. Except as otherwise provided in
20 this Order (see, e.g., second paragraph of section 5.2(a) below), or as otherwise
21 stipulated or ordered, Disclosure or Discovery Material that qualifies for protection
22 under this Order must be clearly so designated before the material is disclosed or
23 produced.

24 Designation in conformity with this Order requires:

25 (a) for information in documentary form (e.g., paper or electronic
26 documents, but excluding transcripts of depositions or other pretrial or trial
27 proceedings), that the Producing Party affix at a minimum, the legend

1 “CONFIDENTIAL,” “HIGHLY CONFIDENTIAL,” or “HIGHLY
2 CONFIDENTIAL ATTORNEY’S EYES ONLY” (hereinafter
3 “CONFIDENTIAL legend”), to each page that contains protected material. If
4 only a portion or portions of the material on a page qualifies for protection, the
5 Producing Party also must clearly identify the protected portion(s) (e.g., by
6 making appropriate markings in the margins).

7 A Party or Non-Party that makes original documents available for
8 inspection need not designate them for protection until after the inspecting Party
9 has indicated which documents it would like copied and produced. During the
10 inspection and before the designation, all of the material made available for
11 inspection shall be deemed “HIGHLY CONFIDENTIAL.” After the inspecting
12 Party has identified the documents it wants copied and produced, the Producing
13 Party must determine which documents, or portions thereof, qualify for
14 protection under this Order. Then, before producing the specified documents,
15 the Producing Party must affix the “CONFIDENTIAL legend” to each page that
16 contains Protected Material. If only a portion or portions of the material on a
17 page qualifies for protection, the Producing Party also must clearly identify the
18 protected portion(s) (e.g., by making appropriate markings in the margins).

19 (b) for testimony given in depositions that the Designating Party identify
20 the Disclosure or Discovery Material on the record, before the close of the
21 deposition all protected testimony.

22 (c) for information produced in some form other than documentary and
23 for any other tangible items, that the Producing Party affix in a prominent place
24 on the exterior of the container or containers in which the information is stored
25 the legend “CONFIDENTIAL,” “HIGHLY CONFIDENTIAL,” or “HIGHLY
26 CONFIDENTIAL – ATTORNEY’S EYES ONLY.” If only a portion or
27

1 portions of the information warrants protection, the Producing Party, to the
2 extent practicable, shall identify the protected portion(s).

3 5.3 Inadvertent Failures to Designate. If timely corrected, an inadvertent
4 failure to designate qualified information or items does not, standing alone, waive the
5 Designating Party's right to secure protection under this Order for such material.
6 Upon timely correction of a designation, the Receiving Party must make reasonable
7 efforts to assure that the material is treated in accordance with the provisions of this
8 Order.

9
10 6. CHALLENGING CONFIDENTIALITY DESIGNATIONS

11 6.1 Timing of Challenges. Any Party or Non-Party may challenge a
12 designation of confidentiality at any time that is consistent with the Court's
13 Scheduling Order.

14 6.2 Meet and Confer. The Challenging Party shall initiate the dispute
15 resolution process under Local Rule 37.1 et seq.

16 6.3 The burden of persuasion in any such challenge proceeding shall be on
17 the Designating Party. Frivolous challenges, and those made for an improper purpose
18 (e.g., to harass or impose unnecessary expenses and burdens on other parties) may
19 expose the Challenging Party to sanctions. Unless the Designating Party has waived or
20 withdrawn the confidentiality designation, all parties shall continue to afford the
21 material in question the level of protection to which it is entitled under the Producing
22 Party's designation until the Court rules on the challenge.

23
24 7. ACCESS TO AND USE OF PROTECTED MATERIAL

25 7.1 Basic Principles. A Receiving Party may use Protected Material that is
26 disclosed or produced by another Party or by a Non-Party in connection with this
27 Action only for prosecuting, defending, or attempting to settle this Action. Such

1 Protected Material may be disclosed only to the categories of persons and under the
2 conditions described in this Order. When the Action has been terminated, a Receiving
3 Party must comply with the provisions of section 13 below (FINAL DISPOSITION).

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

7 7.2 Disclosure of “CONFIDENTIAL” Information or Items. Unless
8 otherwise ordered by the court or permitted in writing by the Designating Party, a
9 Receiving Party may disclose any information or item designated “CONFIDENTIAL”
10 only to:

11 (a) the Receiving Party’s Outside Counsel of Record in this Action, as
12 well as employees of said Outside Counsel of Record to whom it is reasonably
13 necessary to disclose the information for this Action;

14 (b) the officers, directors, and employees (including House Counsel) of
15 the Receiving Party to whom disclosure is reasonably necessary for this Action;

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

19 (d) the court and its personnel;

20 (e) court reporters and their staff;

21 (f) professional jury or trial consultants, mock jurors, and Professional
22 Vendors to whom disclosure is reasonably necessary for this Action and who
23 have signed the “Acknowledgment and Agreement to Be Bound” (Exhibit A);

24 (g) the author or recipient of a document containing the information or a
25 custodian or other person who otherwise possessed or knew the information;

26 (h) during their depositions, witnesses ,and attorneys for witnesses, in the
27 Action to whom disclosure is reasonably necessary provided: (1) the deposing
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1 party requests that the witness sign the form attached as Exhibit 1 hereto; and
2 (2) they will not be permitted to keep any confidential information unless they
3 sign the “Acknowledgment and Agreement to Be Bound” (Exhibit A), unless
4 otherwise agreed by the Designating Party or ordered by the court. Pages of
5 transcribed deposition testimony or exhibits to depositions that reveal Protected
6 Material may be separately bound by the court reporter and may not be
7 disclosed to anyone except as permitted under this Stipulated Protective Order;
8 and

9 (i) any mediator or settlement officer, and their supporting personnel,
10 mutually agreed upon by any of the parties engaged in settlement discussions.

11 7.3 Disclosure of “HIGHLY CONFIDENTIAL” or “HIGHLY
12 CONFIDENTIAL – ATTORNEY’S EYES ONLY” Information or Items. Unless
13 otherwise ordered by the court or permitted in writing by the Designating Party, a
14 Receiving Party may disclose any information or item designated “HIGHLY
15 CONFIDENTIAL” or “HIGHLY CONFIDENTIAL – ATTORNEY’S EYES ONLY”
16 only to:

17 (a) the Receiving Party’s Outside Counsel of Record in this Action, as
18 well as employees of said Outside Counsel of Record to whom it is reasonably
19 necessary to disclose the information for this Action;

20 (b) Experts (as defined in this Order) of the Receiving Party to whom
21 disclosure is reasonably necessary for this Action and who have signed the
22 “Acknowledgment and Agreement to Be Bound” (Exhibit A);

23 (c) the court and its personnel;

24 (d) court reporters and their staff;

25 (e) professional jury or trial consultants, mock jurors, and Professional
26 Vendors to whom disclosure is reasonably necessary for this Action and who
27 have signed the “Acknowledgment and Agreement to Be Bound” (Exhibit A);

1 (f) the author or recipient of a document containing the information or a
2 custodian or other person who otherwise possessed or knew the information;
3 and

4 (g) any mediator or settlement officer, and their supporting personnel,
5 mutually agreed upon by any of the parties engaged in settlement discussions.

6 **8. PROTECTED MATERIAL SUBPOENAED OR ORDERED PRODUCED**
7 **IN OTHER LITIGATION**

8 If a Party is served with a subpoena or a court order issued in other litigation
9 that compels disclosure of any information or items designated in this Action as
10 “CONFIDENTIAL,” “HIGHLY CONFIDENTIAL,” or “HIGHLY CONFIDENTIAL
11 – ATTORNEY’S EYES ONLY,” that Party must:

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

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

18 (c) cooperate with respect to all reasonable procedures sought to be
19 pursued by the Designating Party whose Protected Material may be affected. If
20 the Designating Party timely seeks a protective order, the Party served with the
21 subpoena or court order shall not produce any information designated in this
22 action as “CONFIDENTIAL,” “HIGHLY CONFIDENTIAL,” or “HIGHLY
23 CONFIDENTIAL – ATTORNEY’S EYES ONLY,” before a determination by
24 the court from which the subpoena or order issued, unless the Party has
25 obtained the Designating Party’s permission. The Designating Party shall bear
26 the burden and expense of seeking protection in that court of its confidential
27 material and nothing in these provisions should be construed as authorizing or
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1 encouraging a Receiving Party in this Action to disobey a lawful directive from
2 another court.

3
4 9. A NON-PARTY'S PROTECTED MATERIAL SOUGHT TO BE
5 PRODUCED IN THIS LITIGATION

6 (a) The terms of this Order are applicable to information produced by a
7 Non-Party in this Action and designated as "CONFIDENTIAL," "HIGHLY
8 CONFIDENTIAL," or "HIGHLY CONFIDENTIAL – ATTORNEY'S EYES
9 ONLY." Such information produced by Non-Parties in connection with this
10 litigation is protected by the remedies and relief provided by this Order.
11 Nothing in these provisions should be construed as prohibiting a Non-Party
12 from seeking additional protections.

13 (b) In the event that a Party is required, by a valid discovery request, to
14 produce a Non-Party's confidential information in its possession, and the Party
15 is subject to an agreement with the Non-Party not to produce the Non-Party's
16 confidential information, then the Party shall:

17 (1) promptly notify in writing the Requesting Party and the Non-
18 Party that some or all of the information requested is subject to a
19 confidentiality agreement with a Non-Party;

20 (2) promptly provide the Non-Party with a copy of the Stipulated
21 Protective Order in this Action, the relevant discovery request(s), and a
22 reasonably specific description of the information requested; and

23 (3) make the information requested available for inspection by the
24 Non-Party, if requested.

25 (c) If the Non-Party fails to seek a protective order from this court within
26 14 days of receiving the notice and accompanying information, the Receiving
27 Party may produce the Non-Party's confidential information responsive to the

1 discovery request. If the Non-Party timely seeks a protective order, the
2 Receiving Party shall not produce any information in its possession or control
3 that is subject to the confidentiality agreement with the Non-Party before a
4 determination by the court. Absent a court order to the contrary, the Non-Party
5 shall bear the burden and expense of seeking protection in this court of its
6 Protected Material.

7
8 10. UNAUTHORIZED DISCLOSURE OF PROTECTED MATERIAL

9 If a Receiving Party learns that, by inadvertence or otherwise, it has disclosed
10 Protected Material to any person or in any circumstance not authorized under this
11 Stipulated Protective Order, the Receiving Party must immediately (a) notify in
12 writing the Designating Party of the unauthorized disclosures, (b) use its best efforts
13 to retrieve all unauthorized copies of the Protected Material, (c) inform the person or
14 persons to whom unauthorized disclosures were made of all the terms of this Order,
15 and (d) request such person or persons to execute the “Acknowledgment and
16 Agreement to Be Bound” that is attached hereto as Exhibit A.

17
18 11. INADVERTENT PRODUCTION OF PRIVILEGED OR OTHERWISE
19 PROTECTED MATERIAL

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

1 parties may incorporate their agreement in the stipulated protective order submitted to
2 the court.

3
4 12. MISCELLANEOUS

5 12.1 Right to Further Relief. Nothing in this Order abridges the right of any
6 person to seek its modification by the Court in the future.

7 12.2 Right to Assert Other Objections. By stipulating to the entry of this
8 Protective Order no Party waives any right it otherwise would have to object
9 disclosing or producing any information or item on any ground not addressed in this
10 Stipulated Protective Order. Similarly, no Party waives any right to object on any
11 ground to use in evidence of any of the material covered by this Protective Order.

12 12.3 Filing Protected Material. A Party that seeks to file under seal any
13 Protected Material must comply with Civil Local Rule 79-5. Protected Material may
14 only be filed under seal pursuant to a court order authorizing the sealing of the
15 specific Protected Material at issue. If a Party's request to file Protected Material
16 under seal is denied by the court, then the Receiving Party may file the information in
17 the public record unless otherwise instructed by the court.

18
19 13. FINAL DISPOSITION

20 After the final disposition of this Action, as defined in paragraph 4, within 60
21 days of a written request by the Designating Party, each Receiving Party must return
22 all Protected Material to the Producing Party or destroy such material. As used in this
23 subdivision, "all Protected Material" includes all copies, abstracts, compilations,
24 summaries, and any other format reproducing or capturing any of the Protected
25 Material. Whether the Protected Material is returned or destroyed, the Receiving Party
26 must submit a written certification to the Producing Party (and, if not the same person
27 or entity, to the Designating Party) by the 60 day deadline that (1) identifies (by

1 category, where appropriate) all the Protected Material that was returned or destroyed
2 and (2) affirms that the Receiving Party has not retained any copies, abstracts,
3 compilations, summaries or any other format reproducing or capturing any of the
4 Protected Material. Notwithstanding this provision, Counsel are entitled to retain an
5 archival copy of all pleadings, motion papers, trial, deposition, and hearing transcripts,
6 legal memoranda, correspondence, deposition and trial exhibits, expert reports,
7 attorney work product, and consultant and expert work product, even if such materials
8 contain Protected Material. Any such archival copies that contain or constitute
9 Protected Material remain subject to this Protective Order as set forth in Section 4
10 (DURATION).

11
12 14. Any violation of this Order may be punished by any and all appropriate
13 measures including, without limitation, contempt proceedings and/or monetary
14 sanctions.

15
16 IT IS SO STIPULATED, THROUGH COUNSEL OF RECORD.

17
18 Dated: February 6, 2015

By: /s/ Howard S. Han
Howard S. Han, Esq.
DONIGER / BURROUGHS
Attorneys for Plaintiff Star Fabrics, Inc.

19
20
21
22 Dated: February 6, 2015

By: /s/ H. Kim Sim
H. Kim Sim, Esq.
CONKLE, KREMER & ENGEL
Attorneys for Defendant Gracia Fashion
Corp.

1 Dated: February 6, 2015

2 By: /s/ Sam G. Brooks
3 Sam G. Brooks, Esq.
4 CALL & JENSEN
5 Attorneys for Defendants Groupon, Inc.
6 and Ideeli, Inc.

7 FOR GOOD CAUSE SHOWN, IT IS SO ORDERED.

8 DATED: February 9, 2015

/ s /

9 Honorable Alka Sagar
10 United States Magistrate Judge
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1 EXHIBIT A

2 ACKNOWLEDGMENT AND AGREEMENT TO BE BOUND

3 I, _____ [print or type full name], of
4 _____ [print or type full address], declare
5 under penalty of perjury that I have read in its entirety and understand the Stipulated
6 Protective Order that was issued by the United States District Court for the Central
7 District of California on _____ in the case of Star Fabrics, Inc. v. Ideeli, Inc., *et*
8 *al.*, CV14-02968-MWF-AS. I agree to comply with and to be bound by all the terms
9 of this Stipulated Protective Order and I understand and acknowledge that failure to so
10 comply could expose me to sanctions and punishment in the nature of contempt. I
11 solemnly promise that I will not disclose in any manner any information or item that is
12 subject to this Stipulated Protective Order to any person or entity except in strict
13 compliance with the provisions of this Order.

14 I further agree to submit to the jurisdiction of the United States District Court
15 for the Central District of California for the purpose of enforcing the terms of this
16 Stipulated Protective Order, even if such enforcement proceedings occur after
17 termination of this action. I hereby appoint _____ [print or
18 type full name] of _____ [print or type full
19 address and telephone number] as my California agent for service of process in
20 connection with this action or any proceedings related to enforcement of this
21 Stipulated Protective Order.

22
23 Date: _____

24 City and State where sworn and signed: _____

25 Printed name: _____

26 Signature: _____