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**NOTE: CHANGES HAVE BEEN
 MADE TO THIS DOCUMENT**

10 Attorneys for Plaintiffs
 11 MUNHWA BROADCASTING CORPORATION;
 12 MBC AMERICA HOLDINGS, INC; SEOUL
 BROADCASTING SYSTEM INTERNATIONAL,
 13 INC.; and KBS AMERICA, INC.

(continued on next page)

14 UNITED STATES DISTRICT COURT

15 CENTRAL DISTRICT OF CALIFORNIA

16 MUNHWA BROADCASTING
 17 CORPORATION, *et al.*,

18 Plaintiffs,

19 v.

20 DU HYUN SONG aka DOO HYUN
 SONG aka DYLAN SONG, *et al.*,

21 Defendants.

Case No. CV14-4213-RGK-RZx

Assigned for all purposes to
 Hon. R. Gary Klausner

**[PROPOSED] ORDER RE
 AMENDED JOINT
 STIPULATED PROTECTIVE
 ORDER**

[Discovery Document: Referred to
 Magistrate Judge Ralph Zarefsky]

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CHILBO MYUNOK USA, LLC, COREA
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Attorneys for Defendant
BEUL

1 WHEREAS, the parties to this case, Plaintiffs Munhwa Broadcasting
2 Corporation, MBC America Holdings, Inc., Seoul Broadcasting System
3 International, Inc., and KBS America, Inc. (collectively “Plaintiffs”) and
4 Defendants Media Journal, Inc., Du Hyun Song aka Doo Hyun Song aka Dylan
5 Song, Sung Youn Kim, Best4u, Inc. dba Bestway Realty, Chilbo Myunok USA,
6 LLC, Corea BBQ, Inc. dba Myungdong Tofu House, Beul and Keum S. Kang dba
7 Missyluxy (collectively “Defendants”), by and through their respective attorneys of
8 record, have stipulated to the entry of the following Protective Order pursuant to
9 Federal Rule of Civil Procedure 26(c), and having considered the parties’ Amended
10 Joint Stipulated Protective Order, and good cause appearing, **IT IS HEREBY**
11 **ORDERED AS FOLLOWS:**

12
13 **IT IS HEREBY ORDERED AS FOLLOWS:**

14 **1. Good Cause Statement**

15 Good cause exists for entry of this Order. In this case as in many copyright
16 matters, both parties are likely to produce and offer into evidence a variety of
17 confidential documents and testimony. Both parties agree to this protective order to
18 facilitate the production of such documents.

19 Plaintiffs contend that the following types of documents are confidential and
20 subject to the protections of this stipulation. This listing is not all inclusive as there
21 may be documents with different titles, descriptions or content which are also
22 confidential and/or privileged. As competitors in the marketplace, Plaintiffs
23 maintain the confidentiality of these documents even as amongst one another, and
24 would suffer competitive harm if they were revealed to the public. Such documents
25 include:

- 26 • Communications or documents evidencing Plaintiffs’ financial, sales,
27 advertising and marketing data;

- 1 • Research and development regarding the copyrighted works and the
2 technology at issue in this case;
- 3 • Documents concerning the effect of the technology at issue on
4 subscriptions, viewership and other matters; and
- 5 • Internal communications evidencing strategic planning, market share or
6 other proprietary data.

7 Defendants maintain that the following categories of documents similarly
8 warrant protection under this stipulation:

- 9 • Communications or documents evidencing Defendants’ financial
10 statements, sales, advertising and marketing data;
- 11 • Internal communications evidencing marketing plans, market share, sales
12 plans, sales objectives and other proprietary information; and
- 13 • Communications or documents between Defendants and third parties
14 related to confidential financial statements, marketing plans, sales objects and other
15 proprietary data.

16 **2. Form of Information Governed**

17 This Order shall govern any document, information or other thing which is
18 designated as containing “Confidential Information” as defined herein, and is
19 furnished by any party or nonparty to any party in connection with this action.

20 **3. Definition of Confidential Information**

21 (a) The term “Confidential Information” shall be interpreted to mean ~~trade~~
22 ~~secrets, other confidential and proprietary technical, research, or development~~
23 ~~information, commercial, financial, budgeting and/or accounting information,~~
24 ~~information about existing and potential customers, marketing studies, strategies,~~
25 ~~performance, and projections, business strategies, decisions and/or negotiations,~~
26 ~~personnel compensation, evaluations and other employment information, and~~
27 ~~confidential and proprietary information about affiliates, parents, subsidiaries and~~
28 ~~third parties with whom the Parties to this action have had business relationships,~~

1 ~~and any other information that is reasonably believed by the producing party or~~
2 ~~non-party to be non-public, proprietary or confidential information.~~ those items
3 identified in Paragraph 1 of this Order.

4 (b) The scope of this Order shall be understood to encompass not only
5 those items or things which are expressly designated as Confidential Information,
6 but also any information derived therefrom, and all copies, excerpts, and summaries
7 thereof, as well as testimony and oral conversation derived therefrom or integrally
8 related thereto.

9 (c) The parties agree to treat as confidential any information produced by
10 a third party if (i) the third party has marked the documents or things produced as
11 confidential or otherwise designated the information as confidential in the manner
12 set forth in this Protective Order and (ii) the documents or things produced fall
13 within the definition of Confidential Information.

14 **4. Designated Material**

15 (a) In this action, any person or entity or party to this action or third-party
16 witness (including counsel for the party or witness) (hereinafter the “Designating
17 Person”) (i) producing, formally or informally, information or material, including
18 information from the inspection of files, documents, and facilities, and documents
19 obtained or received by outside counsel for either party pursuant to pretrial
20 discovery in this action from any other party or third-party witness, in response to a
21 discovery request or otherwise, or (ii) lodging with the Court any information or
22 material, may designate such information or material as Confidential Information
23 under this Order. All such information and material and all information or material
24 derived from any such designated information or material constitutes “Designated
25 Material” under this Order. The form of information protected includes, but is not
26 limited to, documents and things, responses to requests to produce documents or
27 other things, responses to interrogatories, responses to requests for admissions,
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1 deposition testimony and exhibits, and all copies, extracts, summaries,
2 compilations, designations and portions thereof.

3 (b) The designation shall be made by marking the material either
4 “CONFIDENTIAL” or “CONFIDENTIAL - ATTORNEYS EYES ONLY,” or, in
5 the case of information from the inspection of files, documents, or facilities, by
6 informing the inspecting party that the information is either “CONFIDENTIAL” or
7 “CONFIDENTIAL - ATTORNEYS EYES ONLY” in writing.

8 (c) The “CONFIDENTIAL – ATTORNEYS EYES ONLY” classification,
9 being more highly protective of disclosure than the “CONFIDENTIAL”
10 classification, governs information that would materially affect the business,
11 financial, or commercial interests of the person producing such material if such
12 information is disclosed. Types of materials that may be entitled to protection
13 under the “CONFIDENTIAL – ATTORNEYS EYES ONLY” designation include,
14 but are not limited to, business plans, marketing plans (including marketing
15 surveys, strategies, performance, and projections), financial statements (including
16 budgets, sales or profit projections or reports, profit and loss statements, balance
17 sheets and income statements), customer lists or any other document that identifies
18 the producing party’s customers or potential customers and/or the terms of any
19 relationships with the customers of a producing party, documents that identify the
20 terms of any relationships with the suppliers of a producing party, technical
21 drawings and specifications, and documents related to the development of products.

22 (d) Designation of information or material as “CONFIDENTIAL” or
23 “CONFIDENTIAL - ATTORNEYS EYES ONLY” under this Protective Order
24 shall not create or alter any presumptions of confidentiality.

25 (e) Whenever only a portion of a document or thing is properly deemed
26 “CONFIDENTIAL” or “CONFIDENTIAL - ATTORNEYS EYES ONLY” under
27 this Protective Order, the Designating Person shall, to the extent practicable, limit
28 the designation to such portion of the material.

1 **5. Access**

2 Designated Material is subject to this Protective Order and shall be retained
3 by receiving party’s outside counsel, and neither the document nor other material so
4 designated, nor the information disclosed therein, shall be disclosed to or used by
5 any non-designating party or other person other than as provided below:

6 (a) Material designated “CONFIDENTIAL” shall be disclosed only to (1)
7 the Court under seal, (2) the parties’ respective outside counsel (including support
8 staff as reasonably necessary), (3) outside stenographic court reporters and
9 language translators (including support staff as reasonably necessary), (4) the
10 named party or officers or employees of a named party who are reasonably needed
11 to assist outside counsel, (5) the authors, senders, addressees and designated copy
12 recipients of any document or thing which has been designated as
13 “CONFIDENTIAL” information, (6) such other individuals as the parties may
14 stipulate in writing, and (7) the additional individuals listed in items (i) through (iii)
15 below, provided that such individuals have read this Stipulation and Protective
16 Order and signed an Undertaking in the form attached as Exhibit A which shall be
17 retained in the files of outside counsel, except where otherwise indicated:

18 (i) outside litigation support vendors;

19 (ii) independent outside consultants or experts retained by the
20 attorneys to the extent deemed necessary by said attorneys for purposes of
21 litigation; and

22 (iii) non-party fact witnesses in a deposition. If, however, the
23 attendance of a non-party fact witness at a deposition can only be obtained
24 through compulsory process, the witness need not execute the attached
25 Exhibit A provided that: (1) the witness acknowledges his/her obligation to
26 maintain the confidentiality of “CONFIDENTIAL” information under oath;
27 and (2) such “CONFIDENTIAL” information may only be shown to the
28 witness during the deposition.

1 (b) Material designated “CONFIDENTIAL - ATTORNEYS EYES
2 ONLY” shall be disclosed only to (1) the Court under seal, (2) the parties’
3 respective outside counsel (including support staff as reasonably necessary), (3)
4 outside stenographic court reporters and language translators (including support
5 staff as reasonably necessary), (4) the authors, senders, addressees and designated
6 copy recipients of any document or thing which has been designated as
7 “CONFIDENTIAL-ATTORNEYS EYES ONLY” information, (5) such other
8 individuals as the parties may stipulate in writing, and (6) the additional individuals
9 listed in items (i) and (ii) below, provided that such individuals have read this
10 Stipulation and Protective Order and signed an Undertaking in the form attached as
11 Exhibit A which shall be retained in the files of outside counsel, except where
12 otherwise indicated:

13 (i) outside litigation support vendors; and

14 (ii) independent outside consultants or experts retained by the
15 attorneys to the extent deemed necessary by said attorneys for purposes of
16 litigation.

17 (c) Notwithstanding the forgoing paragraph 4(b), in the event a producing
18 party or a third party elects to produce documents or other materials for inspection,
19 no markings need be made by the producing party or third party in advance of the
20 inspection. All such documents or other materials may be temporarily designated
21 as “CONFIDENTIAL” or “CONFIDENTIAL – ATTORNEYS EYES ONLY” and
22 shall be treated by the inspecting party as if they were so marked. After selection
23 by the inspecting party of specified documents or material for copying, the
24 producing party shall make its designation under this Protective Order, if any, and
25 the party making copies shall ensure that any copies include any designation made
26 by the producing party.

27 (d) The persons described in Paragraphs 4(a)(i-iii) and 4(b)(i-ii) shall not
28 have access to either “CONFIDENTIAL” or “CONFIDENTIAL – ATTORNEYS

1 EYES ONLY” information, as the case may be, until they have certified that they
2 have read this Protective Order and have manifested their assent to be bound
3 thereby by signing a copy of the Undertaking attached hereto as Exhibit A. Once a
4 person has executed the Undertaking, it shall not be necessary for that person to
5 sign a separate Undertaking each time that person is subsequently given access to
6 confidential material.

7 (e) Designated Material shall not be used by a recipient thereof or
8 disclosed for any purposes other than matters involving the violation of a party’s
9 intellectual property rights, and such disclosure is under provisions of
10 confidentiality.

11 (f) Court reporters and interpreters, such as may be present at depositions,
12 shall be presented with a copy of this Protective Order and acknowledge the
13 obligation to be bound by its terms.

14 (g) Copies and extracts may be made by or for the foregoing persons,
15 provided that all copies and extracts are appropriately marked. All copies and
16 extracts are subject to paragraph 10 of this Order.

17 (h) Derivative Documents. Documents created in whole or in part with
18 information derived from documents designated under this Protective Order shall
19 be designated in the same manner as the source documents.

20 (i) Party’s Own Information. The restrictions on the use of Confidential
21 Information established by this Protective Order are applicable only to the use of
22 Confidential Information received by a party from another party, or from a nonparty
23 who has claimed its disclosure is confidential.

24 (j) Authors and Addressees. The designation of any document or thing as
25 “CONFIDENTIAL” or “CONFIDENTIAL – ATTORNEYS EYES ONLY” shall
26 not preclude any party from showing the document to any person who appears as an
27 author, addressee or recipient on the face of the document.

28 **6. Designating Documents and Materials**

1 When a party producing documents or things wishes to designate some
2 portion as “CONFIDENTIAL” or “CONFIDENTIAL - ATTORNEYS EYES
3 ONLY,” such designation shall be made in the following manner: (1) For
4 documents, by placing an appropriate legend on each page of the document; (2) For
5 tangible objects, by placing a label or tag on the object or the container therefor, or
6 if not practicable, as otherwise agreed; (3) For written discovery responses, by
7 providing any portion thereof containing Confidential Information in a separate
8 document, appended to the main body of the response (appropriately marked in
9 accordance with paragraph 3(b) hereof) and incorporated by reference therein;
10 (4) For declarations or pleadings, in writing in the declaration or pleading and on
11 the face of any such declaration or pleading; (5) For depositions, following the
12 procedure set forth in paragraph 6 ; and (6) For oral disclosures (other than
13 deposition testimony) which are the subject of paragraph 2(b) above, by oral
14 communication contemporaneous with the disclosure followed by confirmation in
15 writing within 14 calendar days of the disclosure thereof.

16 **7. Designating Depositions**

17 (a) Deposition transcripts or portions thereof may be designated as
18 “CONFIDENTIAL” or “CONFIDENTIAL - ATTORNEYS EYES ONLY” by a
19 Designating Person either: (i) during the deposition, in which case the transcript of
20 the designated testimony shall be transcribed on separate pages and marked by the
21 reporter, as the Designating Person may direct, or (ii) by captioned, written notice
22 to the reporter and all counsel of record, given within ten days after the reporter
23 sends written notice that the transcript is available for review, in which case the
24 court reporter shall mark the designated portion in the original transcript as though
25 that portion was timely designated during the deposition session. Counsel receiving
26 such notice shall be responsible for destroying any copies of the improperly
27 designated transcript or portion thereof in their possession or control upon the
28 availability of the properly designated transcript from the court reporter.

1 Notwithstanding the foregoing, all deposition transcripts and exhibits not
2 previously produced shall be treated as if they had been designated
3 “CONFIDENTIAL - ATTORNEYS EYES ONLY” until ten days after the reporter
4 sends written notice that the transcript is available for review and signature by the
5 witness.

6 (b) Where testimony is designated at a deposition, the Designating Person
7 may exclude from the deposition all persons other than those to whom the
8 Designated Material may be disclosed under paragraph 4 of this Order. The failure
9 of such other persons to comply with a request of this type shall constitute
10 substantial justification for outside counsel to advise the witness he need not answer
11 a question seeking the revelation of confidential information.

12 (c) Any party may mark Designated Material as a deposition exhibit and
13 examine any witness thereon, provided that the deposition witness is one to whom
14 the exhibit may be disclosed under paragraph 4 of this Order. In addition,
15 Designated Material may be used by the receiving or non-designating parties in
16 deposing the Designating Person, and in deposing any directors, officers,
17 employees, agents, or attorneys of such Designating Person.

18 **8. Designation Challenges**

19 A party may challenge any other party’s designation of information or
20 materials produced herein as “CONFIDENTIAL” or “CONFIDENTIAL –
21 ATTORNEYS EYES ONLY” by serving a written objection upon the producing
22 party. The parties shall confer in good faith as to the validity of the designation
23 within five (5) days after the challenging party has received the notice of the bases
24 for the asserted designation. To the extent the parties are unable to reach an
25 agreement as to the designation, the objecting party may make an appropriate
26 application to this Court within fifteen (15) days after conferring with the producing
27 party, with confidential portions thereof to be kept under seal, requesting that
28 specifically identified documents, information, and/or deposition testimony be

1 excluded from the provisions of this Protective Order or downgraded in terms of
2 the degree of protection provided. Failure to make an application within this period
3 shall constitute a waiver of the objection. Until a dispute over the asserted
4 designation is finally resolved by the parties or the Court, all parties and persons
5 shall treat the information or materials in question as designated as
6 “CONFIDENTIAL” or “CONFIDENTIAL – ATTORNEYS EYES ONLY.”

7 **9. Court Procedures**

8 In accordance with Local Rule 79-5.1 and this Court’s standing orders, in
9 applications and motions to the Court, all submissions of Designated Material shall
10 be filed with the Court pursuant to the procedures set forth in this Court’s Order
11 entitled *Pilot Program – Instructions to Attorneys – Procedures For Filing Under*
12 *Seal Documents*.¹

13 Unless otherwise ordered by the Court, any hearing which may refer to or
14 describe Designated Material shall be held only after appropriate steps are taken to
15 ensure that the confidentiality of the information is preserved during the hearing.

16 **10. Exceptions**

17 The restrictions on dissemination of Confidential Information contained
18 herein shall not apply to information which, prior to disclosure hereunder, is either
19 in the possession or knowledge of the receiving party or person who, absent this
20 Order is under no restriction with respect to the dissemination of such confidential
21 information, or to information which is public knowledge or which, after
22 disclosure, becomes public knowledge other than through an act or omission of a
23 party receiving the information designated under this Order.

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27 ¹ This document is available at the following link:
28 [http://court.cacd.uscourts.gov/CACD/JudgeReq.nsf/0/20a99d8eb7044b3f882579f5006b081b/\\$FILE/Under%20Seal%20Pilot%20Program%20Procedures%20and%20Schedules.pdf](http://court.cacd.uscourts.gov/CACD/JudgeReq.nsf/0/20a99d8eb7044b3f882579f5006b081b/$FILE/Under%20Seal%20Pilot%20Program%20Procedures%20and%20Schedules.pdf).

1 **11. No Prejudice**

2 (a) Nothing in this Order shall be construed as requiring disclosure of
3 privileged materials, materials subject to protection under the work product
4 doctrine, or materials which are otherwise beyond the permissible scope of
5 discovery. This Order is intended to provide a mechanism for the handling of
6 Confidential Information to which there is no objection to producing or disclosing
7 other than as to its confidentiality.

8 (b) Nothing in this Order shall preclude any party from seeking and
9 obtaining additional or different protection with respect to the confidentiality of
10 discovery.

11 (c) This Order shall not diminish any existing obligation or right with
12 respect to Designated Material, nor shall it prevent a disclosure to which the
13 Designating Person consents in writing before the disclosure takes place.

14 (d) The acceptance of Designated Material shall not constitute an
15 admission or concession or permit an inference that the Confidential Information is,
16 in fact, confidential.

17 (e) This Order shall be without prejudice to the right of any receiving
18 party or persons to bring before the Court at any time the question of whether any
19 particular information is properly categorized.

20 (f) The burden of proof with respect to the propriety or correctness in the
21 designation of information as “CONFIDENTIAL” or “CONFIDENTIAL –
22 ATTORNEYS EYES ONLY” shall rest on the party making such designations.

23 (g) A party may seek to make late designations of discovery by stipulation
24 or court order if the party failed to make a timely designation through mistake or
25 inadvertence.

26 (h) In the event that any Confidential Information is disclosed, either
27 willfully or inadvertently, by a receiving party in contravention of this Order the
28 Confidential Information shall not lose its status through such disclosure and the

1 disclosing party shall take all steps reasonably required to assure its continued
2 confidentiality.

3 **12. Final Disposition**

4 (a) Upon final termination of this action, each receiving party shall be
5 under an obligation to assemble and return to the producing party all Designated
6 Material produced in the terminated action that contains confidential information
7 still subject to this Protective Order, including Derivative Documents and all copies
8 thereof; provided, however, outside counsel of record may elect to destroy any such
9 materials.

10 (b) Notwithstanding the provisions of paragraph 12(a), outside counsel for
11 a receiving party may retain one copy of pleadings, attorney and consultant work
12 product, Designated Materials and depositions taken in this action which contain
13 confidential information that remains subject to this Protective Order.

14 **13. Modification and Survival**

15 The restrictions imposed by this Order may only be modified or terminated
16 by written stipulation of all parties or by order of this Court. This order shall
17 survive termination of this action.

18 **14. Jurisdiction of this Court**

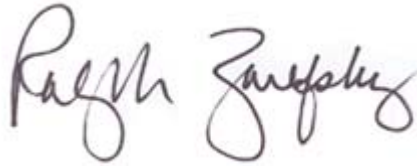
19 The Court's jurisdiction to enforce the terms of this Order expires six months
20 after final termination of the action.

21
22 Notwithstanding anything to the contrary set forth above, this Order shall not
23 govern any submissions made in connection with dispositive motions or at trial. If
24 protection is desired in connection with those proceedings, it must be sought
25 separately from the judicial officer who will preside, at which point different
26 standards apply than the "good cause" standard for this Protective Order. *Foltz v.*
27 *State Farm Mutual Auto Insurance Co.*, 331 F.3d 1122, 1136 (9th Cir. 2003);
28 *Kamakana v. City and County of Honolulu*, 447 F.3d 1172 (9th Cir. 2006).

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IT IS SO ORDERED.

Dated: November 24, 2014



The Honorable Ralph Zarefsky
United States Magistrate Judge

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EXHIBIT TO JOINT STIPULATED PROTECTIVE ORDER

I, _____, hereby declare:

1. I have received a copy of the Joint Stipulated Protective Order, which is attached hereto and has been entered by the Court (“Protective Order”).

2. I have read the Protective Order and am fully familiar with its terms.

3. I agree to comply with, and be bound by, the Protective Order until relieved by further Order of the Court or by written agreement of the parties.

4. I agree to submit to jurisdiction of this Court if any dispute arises over my use of the Confidential Information covered under the Protective Order or over any other issues raised under the Protective Order.

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

Executed this ___ day of _____, at _____,
_____.

(Signature)