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

HAROLD LLOYD ENTERTAINMENT,
INC., a California corporation,

Plaintiffs,

v.

MOMENT FACTORY ONE, INC., a
Delaware corporation; and DOES 1-10,
inclusive,

Defendants.

Case No. CV15-01556-JAK (MRWx)
Hon. Magistrate Judge Michael R. Wilner

STIPULATED PROTECTIVE ORDER

1. INTRODUCTION

1.1 PURPOSES AND LIMITATIONS

Discovery in this action is likely to involve production of confidential, proprietary, or private information for which special protection from public disclosure and from use for any purpose other than prosecuting this litigation may be warranted. Accordingly, the parties hereby stipulate to and petition the Court to enter the following Stipulated Protective Order. The parties acknowledge that this Order does not confer blanket protections on all disclosures or responses to discovery and that the protection it affords from public disclosure and use extends only to the limited information or items that are

1 entitled to confidential treatment under the applicable legal principles. The parties further
2 acknowledge, as set forth in Section 12.3, below, that this Stipulated Protective Order does
3 not entitle them to file confidential information under seal; Civil Local Rule 79-5 sets forth
4 the procedures that must be followed and the standards that will be applied when a party
5 seeks permission from the court to file material under seal.

6 1.2 GOOD CAUSE STATEMENT

7 This action is likely to involve trade secrets, customer and pricing lists and other
8 valuable research, development, commercial, financial, technical and/or proprietary
9 information for which special protection from public disclosure and from use for any
10 purpose other than prosecution of this action is warranted. Such confidential and
11 proprietary materials and information consist of, among other things, confidential business
12 or financial information, information regarding confidential business practices, or other
13 confidential research, development, or commercial information (including information
14 implicating privacy rights of third parties), information otherwise generally unavailable to
15 the public, or which may be privileged or otherwise protected from disclosure under state
16 or federal statutes, court rules, case decisions, or common law. Accordingly, to expedite the
17 flow of information, to facilitate the prompt resolution of disputes over confidentiality of
18 discovery materials, to adequately protect information the parties are entitled to keep
19 confidential, to ensure that the parties are permitted reasonable necessary uses of such
20 material in preparation for and in the conduct of trial, to address their handling at the end of
21 the litigation, and serve the ends of justice, a protective order for such information is
22 justified in this matter. It is the intent of the parties that information will not be designated
23 as confidential for tactical reasons and that nothing be so designated without a good faith
24 belief that it has been maintained in a confidential, non-public manner, and there is good
25 cause why it should not be part of the public record of this case.

1 2. DEFINITIONS

2 2.1 Action: this pending federal law suit.

3 2.2 Challenging Party: a Party or Non-Party that challenges the designation of
4 information or items under this Order.

5 2.3 “CONFIDENTIAL” Information or Items: information (regardless of how it is
6 generated, stored or maintained) or tangible things that qualify for protection under Federal
7 Rule of Civil Procedure 26(c), and as specified above in the Good Cause Statement.

8 2.4 Counsel: Outside Counsel of Record and House Counsel (as well as their
9 support staff).

10 2.5 Designating Party: a Party or Non-Party that designates information or items
11 that it produces in disclosures or in responses to discovery as “CONFIDENTIAL.”

12 2.6 Disclosure or Discovery Material: all items or information, regardless of the
13 medium or manner in which it is generated, stored, or maintained (including, among other
14 things, testimony, transcripts, and tangible things), that are produced or generated in
15 disclosures or responses to discovery in this matter.

16 2.7 Expert: a person with specialized knowledge or experience in a matter
17 pertinent to the litigation who has been retained by a Party or its counsel to serve as an
18 expert witness or as a consultant in this Action.

19 2.8 House Counsel: attorneys who are employees of a party to this Action. House
20 Counsel does not include Outside Counsel of Record or any other outside counsel.

21 2.9 Non-Party: any natural person, partnership, corporation, association, or other
22 legal entity not named as a Party to this action.

23 2.10 Outside Counsel of Record: attorneys who are not employees of a party to this
24 Action but are retained to represent or advise a party to this Action and have appeared in
25 this Action on behalf of that party or are affiliated with a law firm which has appeared on
26 behalf of that party, and includes support staff.

1 2.11 Party: any party to this Action, including all of its officers, directors,
2 employees, consultants, retained experts, and Outside Counsel of Record (and their support
3 staffs).

4 2.12 Producing Party: a Party or Non-Party that produces Disclosure or Discovery
5 Material in this Action.

6 2.13 Professional Vendors: persons or entities that provide litigation support
7 services (e.g., photocopying, videotaping, translating, preparing exhibits or demonstrations,
8 and organizing, storing, or retrieving data in any form or medium) and their employees and
9 subcontractors.

10 2.14 Protected Material: any Disclosure or Discovery Material that is designated as
11 “CONFIDENTIAL.”

12 2.15 Receiving Party: a Party that receives Disclosure or Discovery Material from a
13 Producing Party.

14
15 3. SCOPE

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

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

23
24 4. DURATION

25 Even after final disposition of this litigation, the confidentiality obligations imposed
26 by this Order shall remain in effect until a Designating Party agrees otherwise in writing or
27 a court order otherwise directs. Final disposition shall be deemed to be the later of (1)
28 dismissal of all claims and defenses in this Action, with or without prejudice; and (2) final

1 judgment herein after the completion and exhaustion of all appeals, rehearings, remands,
2 trials, or reviews of this Action, including the time limits for filing any motions or
3 applications for extension of time pursuant to applicable law.

4 5 5. DESIGNATING PROTECTED MATERIAL

6 5.1 Exercise of Restraint and Care in Designating Material for Protection. Each
7 Party or Non-Party that designates information or items for protection under this Order
8 must take care to limit any such designation to specific material that qualifies under the
9 appropriate standards. The Designating Party must designate for protection only those parts
10 of material, documents, items, or oral or written communications that qualify so that other
11 portions of the material, documents, items, or communications for which protection is not
12 warranted are not swept unjustifiably within the ambit of this Order.

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

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

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

24 Designation in conformity with this Order requires:

25 (a) for information in documentary form (e.g., paper or electronic documents, but
26 excluding transcripts of depositions or other pretrial or trial proceedings), that the
27 Producing Party affix at a minimum, the legend "CONFIDENTIAL" (hereinafter
28 "CONFIDENTIAL legend"), to each page that contains protected material. If only a

1 portion or portions of the material on a page qualifies for protection, the Producing Party
2 also must clearly identify the protected portion(s) (e.g., by making appropriate markings in
3 the margins).

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

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

18 (c) for information produced in some form other than documentary and for any
19 other tangible items, that the Producing Party affix in a prominent place on the exterior of
20 the container or containers in which the information is stored the legend
21 “CONFIDENTIAL.” If only a portion or portions of the information warrants protection,
22 the Producing Party, to the extent practicable, shall identify the protected portion(s).

23 5.3 Inadvertent Failures to Designate. If timely corrected, an inadvertent failure to
24 designate qualified information or items does not, standing alone, waive the Designating
25 Party’s right to secure protection under this Order for such material. Upon timely correction
26 of a designation, the Receiving Party must make reasonable efforts to assure that the
27 material is treated in accordance with the provisions of this Order.

1 6. CHALLENGING CONFIDENTIALITY DESIGNATIONS

2 6.1 Timing of Challenges. Any Party or Non-Party may challenge a designation of
3 confidentiality at any time that is consistent with the Court’s Scheduling Order.

4 6.2 Meet and Confer. The Challenging Party shall initiate the dispute resolution
5 process (and, if necessary, file a discovery motion) under Local Rule 37.1 et seq.

6 6.3 The burden of persuasion in any such challenge proceeding shall be on the
7 Designating Party. Frivolous challenges, and those made for an improper purpose (e.g., to
8 harass or impose unnecessary expenses and burdens on other parties) may expose the
9 Challenging Party to sanctions. Unless the Designating Party has waived or withdrawn the
10 confidentiality designation, all parties shall continue to afford the material in question the
11 level of protection to which it is entitled under the Producing Party’s designation until the
12 Court rules on the challenge.

13
14 7. ACCESS TO AND USE OF PROTECTED MATERIAL

15 7.1 Basic Principles. A Receiving Party may use Protected Material that is
16 disclosed or produced by another Party or by a Non-Party in connection with this Action
17 only for prosecuting, defending, or attempting to settle this Action. Such Protected Material
18 may be disclosed only to the categories of persons and under the conditions described in
19 this Order. When the Action has been terminated, a Receiving Party must comply with the
20 provisions of section 13 below (FINAL DISPOSITION).

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

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

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

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

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

9 (d) the Court and its personnel;

10 (e) court reporters and their staff;

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

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

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

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

26
27 8. PROTECTED MATERIAL SUBPOENAED OR ORDERED PRODUCED IN
28 OTHER LITIGATION

1 If a Party is served with a subpoena or a court order issued in other litigation that
2 compels disclosure of any information or items designated in this Action as
3 “CONFIDENTIAL,” that Party must:

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

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

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

12 If the Designating Party timely seeks a protective order, the Party served with the
13 subpoena or court order shall not produce any information designated in this action as
14 “CONFIDENTIAL” before a determination by the court from which the subpoena or order
15 issued, unless the Party has obtained the Designating Party’s permission. The Designating
16 Party shall bear the burden and expense of seeking protection in that court of its
17 confidential material and nothing in these provisions should be construed as authorizing or
18 encouraging a Receiving Party in this Action to disobey a lawful directive from another
19 court.

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21 9. A NON-PARTY’S PROTECTED MATERIAL SOUGHT TO BE PRODUCED IN
22 THIS LITIGATION

23 (a) The terms of this Order are applicable to information produced by a Non-Party in
24 this Action and designated as “CONFIDENTIAL.” Such information produced by Non-
25 Parties in connection with this litigation is protected by the remedies and relief provided by
26 this Order. Nothing in these provisions should be construed as prohibiting a Non-Party
27 from seeking additional protections.
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1 (b) In the event that a Party is required, by a valid discovery request, to produce a
2 Non-Party's confidential information in its possession, and the Party is subject to an
3 agreement with the Non-Party not to produce the Non-Party's confidential information,
4 then the Party shall:

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

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

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

13 (c) If the Non-Party fails to seek a protective order from this court within 14 days of
14 receiving the notice and accompanying information, the Receiving Party may produce the
15 Non-Party's confidential information responsive to the discovery request. If the Non-Party
16 timely seeks a protective order, the Receiving Party shall not produce any information in its
17 possession or control that is subject to the confidentiality agreement with the Non-Party
18 before a determination by the court. Absent a court order to the contrary, the Non-Party
19 shall bear the burden and expense of seeking protection in this court of its Protected
20 Material.

21
22 10. UNAUTHORIZED DISCLOSURE OF PROTECTED MATERIAL

23 If a Receiving Party learns that, by inadvertence or otherwise, it has disclosed
24 Protected Material to any person or in any circumstance not authorized under this
25 Stipulated Protective Order, the Receiving Party must immediately (a) notify in writing the
26 Designating Party of the unauthorized disclosures, (b) use its best efforts to retrieve all
27 unauthorized copies of the Protected Material, (c) inform the person or persons to whom
28 unauthorized disclosures were made of all the terms of this Order, and (d) request such

1 person or persons to execute the “Acknowledgment and Agreement to Be Bound” that is
2 attached hereto as Exhibit A.

3
4 11. INADVERTENT PRODUCTION OF PRIVILEGED OR OTHERWISE
5 PROTECTED MATERIAL

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

15
16 12. MISCELLANEOUS

17 12.1 Right to Further Relief. Nothing in this Order abridges the right of any person
18 to seek its modification by the Court in the future.

19 12.2 Right to Assert Other Objections. By stipulating to the entry of this Protective
20 Order no Party waives any right it otherwise would have to object to disclosing or
21 producing any information or item on any ground not addressed in this Stipulated
22 Protective Order. Similarly, no Party waives any right to object on any ground to use in
23 evidence of any of the material covered by this Protective Order.

24 12.3 Filing Protected Material. A Party that seeks to file under seal any Protected
25 Material must comply with Civil Local Rule 79-5. Protected Material may only be filed
26 under seal pursuant to a court order authorizing the sealing of the specific Protected
27 Material at issue. If a Party's request to file Protected Material under seal is denied by the
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1 court, then the Receiving Party may file the information in the public record unless
2 otherwise instructed by the court.

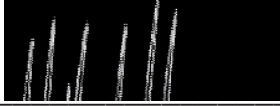
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4 13. FINAL DISPOSITION

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

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23 14. Any violation of this Order may be punished by any and all appropriate measures
24 including, without limitation, contempt proceedings and/or monetary sanctions.
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1 FOR GOOD CAUSE SHOWN, IT IS SO ORDERED.

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3 DATED: August 3, 2015



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7 HON. HON. MICHAEL R. WILNER
8 United States Magistrate Judge

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1 EXHIBIT A

2 ACKNOWLEDGMENT AND AGREEMENT TO BE BOUND

3
4 I, _____ [print or type full name], of
5 _____ [print or type full address], declare under penalty of perjury that I
6 have read in its entirety and understand the Stipulated Protective Order that was issued by
7 the United States District Court for the Central District of California on [date] in the case of
8 HAROLD LLOYD ENTERTAINMENT, INC. V. MOMENT FACTORY ONE, INC.,
9 Case No. CV15-01556-JAK (MRWx). I agree to comply with and to be bound by all the
10 terms of this Stipulated Protective Order and I understand and acknowledge that failure to
11 so comply could expose me to sanctions and punishment in the nature of contempt. I
12 solemnly promise that I will not disclose in any manner any information or item that is
13 subject to this Stipulated Protective Order to any person or entity except in strict
14 compliance with the provisions of this Order.

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

22 Date: _____

23 City and State where sworn and signed: _____

24
25 Printed name: _____

26
27 Signature: _____