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Attorneys for Defendant and Cross-Complainant
 WILSON SPORTING GOODS COMPANY

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

CHEROKEE INC., a Delaware corporation
 Plaintiff,

v.

WILSON SPORTING GOODS
 COMPANY, a Delaware corporation;
 AMER SPORTS INTERNATIONAL OY, a
 Finland corporation; AMER SPORTS
 AMERICAS, an unknown business entity;
 and DOES 1 through 10, inclusive

Defendants.

AND RELATED COUNTERCLAIM

CASE NO. 2:15-cv-04023-BRO (Ex)

**STIPULATION AND
 [PROPOSED] ORDER
 GOVERNING THE PROTECTION
 AND EXCHANGE OF
 CONFIDENTIAL INFORMATION**

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1 IT IS HEREBY STIPULATED, AGREED AND ORDERED, pursuant to Rule
2 26(c) of the Federal Rules of Civil Procedure, that this Stipulation and Order shall
3 govern the production and/or disclosure by any party or non-party (“the Producing
4 Party”) in this Action, including, without limitation, Rule 26 disclosures, documents,
5 depositions, deposition exhibits, interrogatory responses, responses to requests for
6 admission, and testimony (such information shall hereinafter be referred to as
7 “Discovery Material”) and the handling of all such information produced or disclosed
8 to any party (“Receiving Party”).

9 1. This Stipulation and Order shall apply to all information and documents,
10 electronic documents, things, discovery responses and testimony designated in good
11 faith as constituting or containing confidential material by parties and non-parties to
12 this litigation. Any confidential material produced by a party or non-party in this
13 litigation may be designated by such party or non-party as (1) “CONFIDENTIAL” or
14 (2) “HIGHLY CONFIDENTIAL --ATTORNEYS’ EYES ONLY” under the terms of
15 this Stipulation and Order. This Stipulation and Order is subject to the Local Rules of
16 this District and the Federal Rules of Civil Procedure on matters of procedure and
17 calculation of time periods.

18 2. Any Producing Party may designate any Discovery Material as
19 “CONFIDENTIAL” (“Confidential Discovery Material”) under the terms of this
20 Stipulation and Order if such party in good faith believes that such Confidential
21 Discovery Material contains information that falls within one or more of the
22 following categories: (a) information prohibited from disclosure by statute; (b)
23 information that reveals trade secrets; (c) research, technical, commercial or financial
24 information that the party has maintained as confidential; (d) medical information
25 concerning any individual; (e) personal identity information; (f) income tax returns
26 (including attached schedules and forms), W-2 forms and 1099 forms; or (g)
27 personnel or employment records of a person who is not a party to the case.
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1 Information or documents that are available to the public may not be designated as
2 Confidential Discovery Material.

3 3. Any Producing Party may designate any Discovery Material as
4 “HIGHLY CONFIDENTIAL -- ATTORNEYS’ EYES ONLY” (“Highly
5 Confidential Discovery Material”) under the terms of this Stipulation and Order if
6 such party in good faith believes that such Discovery Material contains highly
7 confidential material which comprises highly sensitive technical information relating
8 to research for and production of current products, technical, business and research
9 information regarding future products, highly sensitive financial information and
10 marketing plans and forecasts, customer lists, pricing data, cost data, customer orders,
11 customer quotations, and any non-public pending or abandoned patent applications,
12 either foreign or domestic. In addition, a party shall have the further right to
13 designate and mark documents as being “HIGHLY CONFIDENTIAL --
14 ATTORNEYS’ EYES ONLY,” that relate to other proprietary information that the
15 producing party reasonably believes is of such nature and character that disclosure of
16 such information to the other party of record would be harmful to the Producing
17 Party. The designation of Discovery Material as “CONFIDENTIAL” or “HIGHLY
18 CONFIDENTIAL -- ATTORNEYS’ EYES ONLY” is a certification by an attorney
19 or a party appearing pro se that the document contains Confidential Discovery
20 Material or Highly Confidential Discovery Material as defined in this Stipulation and
21 Order.¹

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23 ¹ An attorney who reviews the documents and designates them as
24 “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL -- ATTORNEYS’ EYES
25 ONLY” must be admitted to the Bar of at least one state but need not be admitted to
26 practice in the Central District of California unless the lawyer is appearing generally
27 in the case on behalf of a party. By designating documents confidential pursuant to
28 this Stipulation and Order, counsel submits to the jurisdiction and sanctions of this
Court on the subject matter of the designation.

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1 4. CONFIDENTIAL and HIGHLY CONFIDENTIAL -- ATTORNEYS'
2 EYES ONLY Discovery Material and information derived therefrom shall be used
3 solely for purposes of this Action and shall not be used for any other purpose,
4 including, without limitation, any business, proprietary, commercial, governmental,
5 or litigation purpose.

6 5. The designation of Discovery Material as "CONFIDENTIAL" or
7 "HIGHLY CONFIDENTIAL -- ATTORNEYS' EYES ONLY" for purposes of this
8 Stipulation and Order shall be made in the following manner by the Producing Party:

9 a. In the case of Rule 26 disclosures, documents, exhibits, briefs,
10 memoranda, interrogatory responses, responses to requests for admission, or other
11 documentary materials (excluding depositions or other testimony) and tangible things
12 by affixing the legend "CONFIDENTIAL" to each thing and each page containing
13 any Confidential Discovery Material and affixing the legend "HIGHLY
14 CONFIDENTIAL -- ATTORNEYS' EYES ONLY" to each page containing Highly
15 Confidential Discovery Material. When a Producing Party produces documents or
16 other tangible things for inspection, no marking need be made by the Producing Party
17 in advance of the inspection. For purposes of such inspection, all documents and
18 tangible things produced shall be considered marked as "HIGHLY CONFIDENTIAL
19 -- ATTORNEYS' EYES ONLY." Thereafter, upon selection of specified documents
20 or things for copying by the Receiving Party, the Producing Party shall mark the
21 copies of such documents and things with the appropriate confidentiality marking at
22 the time that the copies are produced to the Receiving Party.

23 b. In the case of depositions or other testimony, (i) by a statement on the
24 record by counsel during such deposition or other testimony or portion thereof that
25 such testimony shall be treated as Confidential or Highly Confidential Discovery
26 Material, or (ii) by written notice to all parties sent by counsel within ten (10)
27 business days after the written transcript is made available to any party. In the
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1 foregoing instance, each party shall affix to all originals and copies of transcripts in
2 its possession or control the appropriate confidentiality legends. The parties shall
3 treat all depositions and other testimony as Highly Confidential Discovery Material
4 until ten (10) business days after receiving a copy of the transcript thereof. After ten
5 (10) business days, only those portions of any transcript designated as
6 “CONFIDENTIAL” shall be deemed Confidential Discovery Material, and only
7 those portions of any transcript designated as “HIGHLY CONFIDENTIAL --
8 ATTORNEYS’ EYES ONLY” shall be deemed Highly Confidential Discovery
9 Material.

10 c. In the case of information made available during an inspection of
11 premises, all such information shall be deemed “HIGHLY CONFIDENTIAL --
12 ATTORNEYS’ EYES ONLY.” Counsel for the Receiving Party shall be responsible
13 for arranging to have the “HIGHLY CONFIDENTIAL -- ATTORNEYS’ EYES
14 ONLY” legend affixed to all notes, drawings, photographs, videotapes or other
15 documents and copies or portions thereof made at or as a result of the inspection and
16 shall provide counsel for Producing Party with copies of all such drawings,
17 videotapes, photographs, or other documents with ten (10) business days of the visit.

18 d. The inadvertent or unintentional disclosure by the Producing Party of
19 “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL -- ATTORNEYS’ EYES
20 ONLY” information either by way of document production or deposition testimony,
21 regardless of whether the information was so designated at the time of disclosure,
22 shall not be deemed a waiver in whole or in part of a party’s claim of confidentiality
23 as to the information disclosed. Any such inadvertently or unintentionally disclosed
24 “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL -- ATTORNEYS’ EYES
25 ONLY” information, not designated as such pursuant to this Stipulation and Order,
26 shall be designated as “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL --
27 ATTORNEYS’ EYES ONLY” as soon as reasonably possible after the Producing
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1 Party becomes aware of the inadvertent or unintentional disclosure. The Receiving
2 Party shall thereafter mark, and treat the materials as "CONFIDENTIAL" or
3 "HIGHLY CONFIDENTIAL" as appropriate, and such materials shall be fully
4 subject to this Stipulation and Order as if they had been initially so designated.

5 6. Discovery Material designated "CONFIDENTIAL" may be disclosed,
6 summarized, described, or otherwise communicated or made available in whole or in
7 part only to the following:

8 a. counsel of record for the parties in this Action, members of their firms,
9 associate attorneys, paralegal, clerical and other regular or temporary employees of
10 such counsel necessary to assist in the conduct of this Action for use in accordance
11 with this Stipulation and Order;

12 b. any attorney employed as in-house counsel by a party, and any paralegal,
13 clerical and other regular or temporary employees of a party as reasonably necessary
14 to assist in the conduct of this Action for use in accordance with this Stipulation and
15 Order once such in-house attorney and others covered by this sub-paragraph are
16 identified to the Producing Party;

17 c. outside consultants, experts, or non-technical jury or trial consulting
18 services ("Consultants") retained by a party in this Action, but only after such persons
19 have completed the certification contained in Attachment A, Acknowledgment of
20 Understanding and Agreement to Be Bound;

21 d. the individual parties;

22 e. the Court, court personnel and court reporters;

23 f. outside photocopying, imaging, data base, graphics or design services
24 retained by outside counsel of record for purposes of preparing demonstrative or
25 other exhibits for deposition, trial, or other court proceedings in this Action;

26 g. witnesses in this action to whom disclosure is reasonably necessary;

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1 h. the author or recipient of the document (not including a person who
2 received the document in the course of litigation); and

3 i. other persons (including in-house representatives who would not
4 otherwise have access) only upon Order of the Court or upon written stipulation of
5 the Producing Party and on such conditions as may be agreed or ordered.

6 7. Discovery Material designated "HIGHLY CONFIDENTIAL --
7 ATTORNEYS' EYES ONLY" may be disclosed, summarized, described or
8 otherwise communicated or made available in whole or in part only to those
9 individuals in sub-paragraph 6(a), (b), (c), (e), (f), (g), (h), and (i).

10 8. Nothing in this Order shall bar or otherwise restrict any outside counsel
11 or in-house counsel from rendering advice to a party-client in this litigation and, in
12 the course thereof, relying upon such attorney's examination and/or analysis of
13 Confidential or Highly Confidential Discovery Material, provided, however, that in
14 rendering such advice and in otherwise communicating with such client, such counsel
15 shall not disclose any Confidential or Highly Confidential Discovery Material to
16 persons not authorized to receive it pursuant to the terms of this Order.

17 9. Each person to be given access to Confidential or Highly Confidential
18 Discovery Material (collectively "Material") pursuant to this Stipulation and Order
19 (except those individuals listed in sub-paragraphs 6(a), 6(b), and 6(e)) shall be
20 provided with a copy of this Stipulation and Order and shall be advised that (a) the
21 Material is being disclosed pursuant to and subject to the terms of this Stipulation and
22 Order and may not be disclosed or used other than pursuant to the terms hereof, and
23 (b) the violation of the terms of the Stipulation and Order (by use of the Material in
24 any impermissible manner) may subject the person to punishment for contempt of a
25 Court Order. Any such person to be given access to Material must first read the
26 Stipulation and Order, and must execute, in the form attached hereto as Exhibit A, an
27 Undertaking to be bound by this Order and to be subject to the jurisdiction of this
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1 Court for purposes of the enforcement of this Order. The original Undertaking shall
2 be retained by counsel giving access to the Material. If Material is to be disclosed
3 during a deposition or trial, the agreement to be bound and subject to jurisdiction may
4 be made on the record and under oath, rather than in writing, and any objections may
5 also be made orally. Pending resolution of such objections, no disclosures of
6 Material may be made.

7 10. If "CONFIDENTIAL" or "HIGHLY CONFIDENTIAL --
8 ATTORNEYS' EYES ONLY" information is to be the subject of examination in
9 deposition of non-party witnesses, the following procedures shall apply. Witnesses
10 shall not retain a copy of documents containing Confidential or Highly Confidential
11 Discovery Material, except witnesses may receive a copy of all exhibits marked at
12 their depositions in connection with review of the transcripts. Pages of transcribed
13 deposition testimony or exhibits to depositions that are designated as Confidential or
14 Highly Confidential Discovery Material pursuant to the process set out in this Order
15 must be separately bound by the court reporter and may not be disclosed to anyone
16 except as permitted under this Order.

17 11. Should any Confidential or Highly Confidential Discovery Material be
18 disclosed, through inadvertence or otherwise, to any person or party not authorized
19 under this Stipulation and Order, then, in addition to any penalties for violation of this
20 Stipulation and Order to which the disclosing party may be subject, the disclosing
21 party shall use its best efforts to bind such unauthorized person to the terms of this
22 Stipulation and Order; and the disclosing party shall: (a) promptly inform such person
23 of all the provisions of this Stipulation and Order; (b) immediately advise the
24 Producing Party of the identity of Confidential or Highly Confidential Discovery
25 Material so disclosed and the identity of the person(s) to whom it was disclosed; (c)
26 request such person to sign an Undertaking in the form attached as Exhibit A; and (d)
27 retrieve all copies of documents and things containing the inadvertently disclosed
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1 information. The executed Undertaking shall be served promptly upon the Producing
2 Party.

3 12 This Order does not, by itself, authorize the filing of any document
4 under seal. Any party wishing to file a document designated as Confidential or
5 Highly Confidential Discovery Material in connection with a motion, brief or other
6 submission to the Court shall file the document under seal in accordance with (i)
7 Local Rule L.R. 79-5 Of the Central District of California and (ii) the Standing Order
8 and related requirements of Judge O'Connell and the assigned Magistrate Judge.

9 13. Entering into, agreeing to, and/or producing or receiving Confidential or
10 Highly Confidential Discovery Material or otherwise complying with the terms of
11 this Stipulation and Order shall not:

12 a. operate as an admission by any party that any particular
13 Confidential or Highly Confidential Discovery Material produced by another party or
14 non-party contains or reflects trade secrets, proprietary or commercially sensitive
15 information or any type of confidential information;

16 b. operate as an admission by any party that the restrictions and
17 procedures set forth herein constitute adequate protection for any particular
18 information deemed by any party to be Confidential or Highly Confidential
19 Discovery Material;

20 c. prejudice in any way the rights of any party to object to the
21 production of documents they consider not subject to discovery;

22 d. prejudice in any way the rights of any party to object to the
23 authenticity or admissibility into evidence of any document, testimony or other
24 evidence subject to this Stipulation and Order;

25 e. prejudice in any way the rights of a party to seek determination by
26 the Court whether any Discovery Material should or should not be subject to the
27 terms of this Stipulation and Order;

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1 f. prejudice in any way the rights of a party to petition the Court for
2 a further protective order relating to any purportedly confidential information; and/or

3 g. prevent the parties to this Stipulation and Order from agreeing in
4 writing or on the record during a deposition or hearing in this Action to alter or waive
5 the provisions or protections provided herein with respect to any particular Discovery
6 Material.

7 14. Nothing herein shall be construed to limit or restrict a party's use or
8 disclosure of its own Confidential or Highly Confidential Discovery Material for any
9 purpose. Nothing contained herein shall impose any restrictions on the use or
10 disclosure by a party of documents, materials or information designated as
11 Confidential or Highly Confidential Discovery Material obtained lawfully by such
12 party independently of any proceedings in this Action, or which:

13 a. was already known to such party by lawful means prior to
14 acquisition from, or disclosure by, the other party in the Action; and/or

15 b. is or becomes publicly known by lawful means and through no
16 fault or act of such party; or

17 c. is rightfully received by such party from a third party which has
18 authority to provide such Confidential or Highly Confidential Discovery Material and
19 without restriction as to disclosure.

20 15. In the event additional parties join or are joined in this Action, they shall
21 not have access to Confidential or Highly Confidential Discovery Material until the
22 newly-joined party or its counsel has executed and, at the request of any party, filed
23 with the Court its agreement to be fully bound by this Stipulation and Order or an
24 alternative protective Order entered by the Court. In addition, third parties who are
25 subpoenaed to produce information in this Action may produce information subject to
26 this Protective Order, provided they agree in writing to be bound by its provisions.
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1 16. It is the present intention of the parties that the provisions of this
2 Stipulation and Order shall govern discovery and other pretrial and trial proceedings
3 in this Action, subject to any contrary requirements of the Court or the Magistrate
4 Judge. Nonetheless, each of the parties hereto shall be entitled to seek modification
5 of this Stipulation and Order by application to the assigned Magistrate on notice to
6 the other parties hereto for good cause. No change in this Stipulation and Order that
7 adversely affects the protection of any information, document, or thing produced or
8 given by a non-party in this case shall be made without giving appropriate notice to
9 that non-party and an opportunity to be heard by the Court.

10 17. The parties agree to be bound by the terms of this Stipulation and Order
11 pending its entry by the Court or pending the entry of an alternative thereto which is
12 satisfactory to all parties.

13 18. The provisions of this Stipulation and Order and this Court's jurisdiction
14 to enforce its terms shall survive the conclusion of this Action. Within sixty (60)
15 days after receiving notice of the entry of an Order, judgment or decree finally
16 disposing of this Action, including any appeals therefrom, all persons having received
17 Confidential or Highly Confidential Discovery Material shall return to counsel for the
18 Producing Party such material and all copies thereof (including summaries and
19 excerpts) or destroy all such material and copies. Counsel shall make reasonable
20 efforts to ensure that any Consultants it has retained abide by this provision. Counsel
21 shall provide a certification that all Confidential or Highly Confidential Discovery
22 Material has been returned or destroyed pursuant to this paragraph. Outside counsel
23 of record in this Action shall be entitled to retain court papers, deposition and trial
24 transcripts, exhibits and attorney work product (including court papers, transcripts,
25 and attorney work product that contains Confidential Discovery Material) provided
26 that such counsel, and employees of such counsel, shall not disclose any Confidential
27 Discovery Material contained in such court papers, transcripts, or attorney work
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1 product to any person or entity except pursuant to a written agreement with the
2 Producing Party. All material returned to the parties or their counsel by the Court
3 likewise shall be handled in accordance with this paragraph.

4 19. During the pendency of this Action, any party objecting to the
5 designation of any Discovery Material or testimony as Confidential or Highly
6 Confidential Discovery Material may, after making a good-faith effort to resolve any
7 objection, move for an Order vacating the designation. While such an application is
8 pending, the Discovery Material or testimony in question shall be treated as it has
9 been designated, either Confidential or Highly Confidential Discovery Material,
10 pursuant to this Stipulation and Order. The provisions of this Stipulation and Order
11 are not intended to shift the burden of establishing confidentiality, which shall at all
12 times remain with the Producing Party.

13 20. In the event that any Confidential or Highly Confidential Discovery
14 Material is used in any trial, hearing or other court proceeding in this Action or any
15 appeal therefrom, said Confidential or Highly Confidential Discovery Material shall
16 not lose its status as Confidential or Highly Confidential Discovery Material through
17 such use. Counsel shall confer with the Court on such procedures as are necessary to
18 protect the confidentiality of any documents, information and transcripts used in the
19 course of any such proceedings.

20 21. If any Receiving Party (a) is subpoenaed in another action, or (b) is
21 served with a demand in another action to which it is a party, or (c) is served with any
22 legal process by one not a party to this Action, seeking Discovery Material which was
23 produced or designated as "CONFIDENTIAL" or "HIGHLY CONFIDENTIAL --
24 ATTORNEYS' EYES ONLY" by someone other than the Receiving Party, the
25 Receiving Party shall give actual written notice, by hand or facsimile transmission,
26 within five (5) business days of receipt of the subpoena, demand, or legal process to
27 those who produced or designated the material "CONFIDENTIAL" or "HIGHLY
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1 CONFIDENTIAL -- ATTORNEYS' EYES ONLY" to allow the Producing Party to
2 object to its production to the extent permitted by law. Should the person seeking
3 access to the Confidential or Highly Confidential Discovery Material take action
4 against the Receiving Party or anyone else covered by this Stipulation and Order to
5 enforce such a subpoena, demand or other legal process, the Receiving Party shall
6 respond by setting forth the existence of this Stipulation and Order. The Producing
7 Party shall bear the burden and expense of seeking protection in that court of its
8 confidential material, and nothing in these provisions should be construed as
9 authorizing or encouraging a party in this action to disobey a lawful directive from
10 another court.

11 22. If information subject to a claim of attorney-client privilege or work-
12 product immunity is inadvertently or mistakenly produced, such production shall in
13 no way prejudice or otherwise constitute a waiver of, or estoppel as to, any claim of
14 privilege or work-product immunity for such information. If a party has
15 inadvertently or mistakenly produced information subject to a claim of immunity or
16 privilege, upon written request made by the producing party within twenty-one (21)
17 days of discovery of such inadvertent or mistaken production, the information for
18 which a claim of inadvertent production is made, including all copies, shall be
19 returned within seven (7) business days of such request whether or not the receiving
20 party agrees with the claim. All copies of inadvertently or mistakenly produced
21 documents shall be destroyed, and any document or material information reflecting
22 the contents of the inadvertently produced information shall be expunged. After
23 taking these actions, the receiving party may move the Court to compel production
24 based on a challenge to the producing party's assertion of inadvertence, privilege, or
25 immunity.

26 [SIGNATURES ON NEXT PAGE]
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1 DATED: August 5, 2015

JEFFER MANGELS BUTLER & MITCHELL LLP

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By: /s/Susan Allison

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Attorneys for Plaintiff CHEROKEE INC.

10 DATED: August 5, 2015

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By: /s/Adam Le Berthon

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Attorneys for Defendant and Cross-Complainant
WILSON SPORTING GOODS COMPANY

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22

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ORDER

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IT IS SO ORDERED.

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Dated: 8/18/15

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MAGISTRATE JUDGE CHARLES F. EICK

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EXHIBIT A

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

CHEROKEE INC., a Delaware corporation
Plaintiff,

v.

WILSON SPORTING GOODS
COMPANY, a Delaware corporation;
AMER SPORTS INTERNATIONAL OY, a
Finland corporation; AMER SPORTS
AMERICAS, an unknown business entity;
and DOES 1 through 10, inclusive

Defendants.

WILSON SPORTING GOODS CO., a
Delaware corporation,

Counterclaim-Plaintiff,

v.

CHEROKEE INC, a Delaware corporation;
and ROES 1 through 10, inclusive,

Counterclaim-Defendant.

CASE NO. 2:15-cv-04023-BRO (Ex)

**STIPULATION AND ORDER
GOVERNING THE PROTECTION
AND EXCHANGE OF
CONFIDENTIAL INFORMATION**

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ACKNOWLEDGMENT AND AGREEMENT TO BE BOUND

The undersigned hereby acknowledges that he/she has read the
Stipulation and Order Governing the Protection and Exchange of Confidential
Material dated _____ in the above-captioned action and
attached hereto (the "Confidentiality Order"), understands the terms thereof, and
agrees to be bound by its terms. The undersigned submits to the jurisdiction of the
United States District Court for the Central District of California in matters relating to
the Confidentiality Order and understands that the terms of the Confidentiality Order
obligate him/her to use materials designated as Confidential Information in
accordance with the Order solely for the purposes of the above-captioned action, and

1 not to disclose any such Confidential Information to any other person, firm or
2 concern.

3 The undersigned acknowledges that violation of the Confidentiality
4 Order may result in penalties for contempt of court.

5 Name: _____

6 Job Title: _____

7 Employer: _____

8 Business Address: _____

9 _____

10 _____

11 _____

12 Date: _____

Signature _____

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