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 Clothing, Inc., Ross Stores, Inc. and DDs
 7 Discounts

8 UNITED STATES DISTRICT COURT
 9 CENTRAL DISTRICT OF CALIFORNIA, WESTERN DIVISION

11 UNICOLORS, INC.,
 12 Plaintiff,
 13
 v.
 14 ALL FASHIONS CLOTHING, INC.; a
 15 New York Corporation; ROSS
 STORES, INC. a California
 16 Corporation; DDs Discounts, a
 California Corporation; and DOES 1-
 17 20, inclusive,
 18 Defendants.

CASE No. 2:15-cv-08475-BRO-PJW
 DISCOVERY MATTER
**STIPULATED PROTECTIVE
 ORDER**
 Honorable Beverly Reid O'Connell,
 Judge Presiding
 Honorable Patrick J. Walsh, Magistrate
 Judge
 Complaint filed: October 29, 2015
 Trial Date: None

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1 Pursuant to Fed.R.Civ.P. 26(c) and Civil Local Rule 79-5, the parties to this
2 lawsuit, through undersigned counsel, jointly submit this Stipulated Protective Order to
3 govern the handling of information and materials produced in the course of discovery
4 or filed with the Court in this action;

5
6 **GOOD CAUSE STATEMENT**

7 It is the intent of the parties and the Court that information will not be designated
8 as confidential for tactical reasons in this case and that nothing shall be designated
9 without a good faith belief that there is good cause why it should not be part of the
10 public record of this case. Examples of confidential information that the parties may
11 seek to protect from unrestricted or unprotected disclosure include:

12
13 (a) Information that is the subject of a non-disclosure or confidentiality
14 agreement or obligation;

15
16 (b) The names, or other information tending to reveal the identity of a party's
17 supplier, vendor, designer, distributor, or customer;

18
19 (c) Agreements with third-parties, including license agreements, distributor
20 agreements, manufacturing agreements, design agreements, development agreements,
21 supply agreements, sales agreements, or service agreements;

22
23 (d) Research and development information;

24
25 (e) Proprietary engineering or technical information, including product design,
26 manufacturing techniques, processing information, drawings, memoranda and reports;

27
28

1 (f) Information related to budgets, sales, profits, costs (including overhead,
2 whether specifically allocated or otherwise), margins, licensing of technology or
3 designs, product pricing, or other internal financial/accounting information, including
4 non-public information related to financial condition or performance and income or
5 other non-public tax information;

6
7 (g) Information related to internal operations including personnel information;

8
9 (h) Information related to past, current and future product development;

10
11 (i) Information related to past, current and future market analyses and business
12 and marketing development, including plans, strategies, forecasts and competition; and

13
14 (j) Trade secrets (as defined either by the jurisdiction in which the information is
15 located or by the State of California, whichever definition may be broader).

16
17 Unrestricted or unprotected disclosure of such confidential technical, commercial
18 or personal information would result in prejudice or harm to the producing party by
19 revealing the producing party's competitive confidential information, which has been
20 developed at the expense of the producing party and which represents valuable tangible
21 and intangible assets of that party.

22
23 Additionally, privacy interests must be safeguarded. Accordingly, the parties
24 respectfully submit that there is good cause for the entry of this Protective Order.

25
26 The parties agree, subject to the Court's approval, that the following terms and
27 conditions shall apply to this civil action.

28

1 1. Designated Material.

2 1.1 Information or material may be designated for confidential treatment
3 pursuant to this Protective Order by any party, person or entity producing or lodging it
4 in this action (the "Designating Party"), if: (a) produced or served, formally or
5 informally, pursuant to the Federal Rules of Civil Procedure or in response to any other
6 formal or informal discovery request in this action; and/or (b) filed or lodged with the
7 Court. All such information and material and all information or material derived from it
8 constitutes "Designated Material" under this Protective Order.

9
10 1.2 Unless and until otherwise ordered by the Court or agreed to in writing by
11 the parties, all Designated Materials designated under this Protective Order shall be
12 used by the parties and persons receiving such Designated Materials solely for
13 conducting the above-captioned litigation and any appellate proceeding relating thereto.
14 Designated Material shall not be used by any party or person receiving them for any
15 business or any other purpose. No party or person shall disclose Designated Material to
16 any other party or person not entitled to receive such Designated Material under the
17 specific terms of this Protective Order. For purposes of this Protective Order, "disclose"
18 or "disclosed" means to show, furnish, reveal or provide, indirectly or directly, any
19 portion of the Designated Material or its contents, orally or in writing, including the
20 original or any copy of the Designated Material.

21
22 2. Access to Designated Materials.

23 2.1 Materials Designated "CONFIDENTIAL": Subject to the limitations set
24 forth in this Protective Order, Designated Material may be marked "CONFIDENTIAL"
25 for the purpose of preventing the disclosure of information or materials that the
26 designating party in good faith believes is confidential. Before designating any specific
27 information or material "CONFIDENTIAL," the Designating Party's counsel shall
28 make a good faith determination that the information warrants protection under Rule

1 26(c) of the Federal Rules of Civil Procedure. Such information may include, but is not
2 limited to:

3
4 (a) The financial performance or results of the Designating Party,
5 including without limitation income statements, balance sheets, cash flow analyses,
6 budget projections, and present value calculations;

7 (b) Corporate and strategic planning by the Designating Party, including
8 without limitation marketing plans, competitive intelligence reports, sales projections
9 and competitive strategy documents;

10 (c) Names, addresses, and other information that would identify
11 customers or prospective customers, or the distributors or prospective distributors of the
12 Designating Party;

13 (d) Technical data, research and development data, and any other
14 confidential commercial information, including but not limited to trade secrets of the
15 Designating Party;

16 (e) Information used by the Designating Party in or pertaining to its
17 trade or business, which information the Designating Party believes in good faith has
18 competitive value, which is not generally known to others and which the Designating
19 Party would not normally reveal to third parties except in confidence, or has undertaken
20 with others to maintain in confidence;

21 (f) Information which the Designating Party believes in good faith falls
22 within the right to privacy guaranteed by the laws of the United States or California;
23 and

24 (g) Information which the Designating Party believes in good faith to
25 constitute, contain, reveal or reflect proprietary, financial, business, technical, or other
26 confidential information.

27
28

1 (h) The fact that an item or category is listed as an example in this or
2 other sections of this Protective Order does not, by itself, render the item or category
3 discoverable.

4 2.1.0 Materials designated "CONFIDENTIAL" may be disclosed
5 only to the following Designees:

6
7 2.1.1 Persons who appear on the face of Designated Materials
8 marked "CONFIDENTIAL" as an author, addressee, or recipient thereof;

9
10 2.1.2 Counsel retained as outside litigation attorneys of record in
11 this action, and their respective associates, clerks, legal assistants, stenographic,
12 videographic and support personnel, and other employees of such outside litigation
13 attorneys, and organizations retained by such attorneys to provide litigation support
14 services in this action and the employees of said organizations. "Counsel" explicitly
15 excludes any in-house counsel whether or not they are attorneys of record in this action.

16
17 2.1.3 Consultants, including non-party experts and consultants
18 retained or employed by Counsel to assist in the preparation of the case, to the extent
19 they are reasonably necessary to render professional services in this action, and subject
20 to the disclosure requirements of section 2.3. Each consultant must sign a certification
21 that he or she has read this Stipulated Protective Order, will abide by its provisions, and
22 will submit to the jurisdiction of this Court regarding the enforcement of this Order's
23 provisions.

24
25 2.1.4 A party's officers and/or employees, which may include in-
26 house counsel.

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1 2.1.5 The Court, its clerks and secretaries, and any court reporter
2 retained to record proceedings before the Court;

3
4 2.2 Materials Designated “HIGHLY CONFIDENTIAL – ATTORNEYS’
5 EYES ONLY”: Subject to the limitations in this Protective Order, Designated Materials
6 may be marked “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY” for the
7 purpose of preventing the disclosure of information or materials which, if disclosed to
8 the receiving party, might cause competitive harm to the Designating Party.
9 Information and material that may be subject to this protection includes, but is not
10 limited to, technical and/or research and development data, intellectual property,
11 financial, marketing and other sales data, and/or information having strategic
12 commercial value pertaining to the Designating Party’s trade or business. Nothing in
13 paragraph 2.1 shall limit the information or material that can be designated “HIGHLY
14 CONFIDENTIAL – ATTORNEYS’ EYES ONLY” under this paragraph. Before
15 designating any specific information “HIGHLY CONFIDENTIAL – ATTORNEYS’
16 EYES ONLY,” the Designating Party’s counsel shall make a good faith determination
17 that the information warrants such protection.

18
19 2.2.0 Materials designated “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES
20 ONLY” materials may be disclosed only to the following Designees:

21
22 2.2.1 Persons who appear on the face of Designated Materials marked “HIGHLY
23 CONFIDENTIAL – ATTORNEYS’ EYES ONLY” as an author, addressee, or
24 recipient thereof;

25
26 2.2.2 Counsel for the parties to this action, as defined in section 2.1.2;

27
28 2.2.3 Consultants for the parties to this action, as defined in section 2.1.3; and

1 2.2.4 The Court, its clerks and secretaries, and any court reporter retained to
2 record proceedings before the Court.

3
4 2.2.5 Court reporters retained to transcribe depositions.

5
6 2.3 If any party wishes to disclose information or materials designated under
7 this Protective Order as “HIGHLY CONFIDENTIAL,” “CONFIDENTIAL –
8 ATTORNEYS’ EYES ONLY” to any Consultant, it must first identify that individual
9 to the Counsel for the Designating Party and submit a Certification of Consultant
10 pursuant to Section 3. CONFIDENTIAL – ATTORNEYS’ EYES ONLY

11
12 2.4 Legal Effect of Designation. The designation of any information or
13 materials as “CONFIDENTIAL,” “HIGHLY CONFIDENTIAL – ATTORNEYS’
14 EYES ONLY” is intended solely to facilitate the conduct of this litigation. Neither such
15 designation nor treatment in conformity with such designation shall be construed in any
16 way as an admission or agreement by any party that the Designated Materials constitute
17 or contain any trade secret or confidential information. Except as provided in this
18 Protective Order, no party to this action shall be obligated to challenge the propriety of
19 any designation, and a failure to do so shall not preclude a subsequent attack on the
20 propriety of such designation.

21
22 2.5 Nothing herein in any way restricts the ability of the receiving party to use
23 “CONFIDENTIAL,” “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY”
24 material produced to it in examining or cross-examining any employee or consultant of
25 the Designating Party. Receiving Party may not use those Designated Materials
26 marked by a Designating Party to examine or cross-examine an employee or consultant,
27 or other individual or corporate representative who is not associated with or employed
28 by such Designating Party. If a party wishes to use Designated Material during an

1 examination of employee or consultant or another individual associated with a non-
2 Designating Party, and the Designating Party objects to such use, the parties shall hold
3 a meet and confer to resolve the dispute. If the meet and confer is unsuccessful, the
4 parties may contact the courtroom deputy to the Magistrate Judge and request an
5 informal discovery conference, to be held telephonically, to resolve the dispute.

6
7 2.6 The parties agree that the Plaintiff may be provided the alleged infringers'
8 full identities, each alleged infringers' total revenues, and total gross profits numbers,
9 notwithstanding any party's designation of documents showing such figures as
10 "CONFIDENTIAL," or "HIGHLY CONFIDENTIAL – ATTORNEYS' EYES
11 ONLY". Nothing in this section 2.6, however, shall impose any obligation on any party
12 to produce in discovery records, figures, or calculations in any particular format or
13 manner. The parties further agree that additional alleged infringers revealed in
14 documents designated as "CONFIDENTIAL," or "HIGHLY CONFIDENTIAL –
15 ATTORNEYS' EYES ONLY" may be added to a lawsuit.

16
17 3. Certificates Concerning Designated Materials. Each Consultant as defined in
18 section 2.1.3, to whom any Designated Materials will be disclosed shall, prior to
19 disclosure of such material, execute the Acknowledgement of Stipulated Protective
20 Order in the form attached hereto as Exhibit A. Counsel who makes any disclosure of
21 Designated Materials shall retain each executed Acknowledgement of Stipulated
22 Protective Order and shall circulate copies to all Counsel for the opposing party
23 concurrently with the identification of the Consultant to the attorneys for the
24 Designating Party pursuant to Section 2.3.o

25
26 4. Use of Designated Materials by Designating Party. Nothing in this Protective
27 Order shall limit a Designating Party's use of its own information or materials, or
28 prevent a Designating Party from disclosing its own information or materials to any

1 person. Such disclosure shall not affect any designations made pursuant to the terms of
2 this Protective Order, so long as the disclosure is made in a manner that is reasonably
3 calculated to maintain the confidentiality of the information.

4
5 5. Manner of Designating Written Materials.

6 5.1 Documents, discovery responses and other written materials shall be
7 designated as "CONFIDENTIAL," "HIGHLY CONFIDENTIAL – ATTORNEYS'
8 EYES ONLY" whether in whole or in part, as follows.

9
10 5.2 The producing party shall designate materials by placing the legend
11 "CONFIDENTIAL," "HIGHLY CONFIDENTIAL – ATTORNEYS' EYES ONLY"
12 on each page so designated prior to production. If the first or cover page of a multi-page
13 document bears the legend "CONFIDENTIAL," "HIGHLY CONFIDENTIAL –
14 ATTORNEYS' EYES ONLY" the entire document shall be deemed so designated, and
15 the absence of marking each page shall not constitute a waiver of the terms of this
16 Order. If the label affixed to a computer disk containing multiple files bears the legend
17 "CONFIDENTIAL," "CONFIDENTIAL – ATTORNEYS' EYES ONLY" the entire
18 disk shall be deemed so protected, and the absence of marking of each file shall not
19 constitute a waiver of the terms of this Order.

20
21 5.3 A designation of "CONFIDENTIAL," or "HIGHLY CONFIDENTIAL –
22 ATTORNEYS' EYES ONLY" as to any item, thing or object that cannot otherwise be
23 categorized as a document, shall be made: (1) by placing the legend
24 "CONFIDENTIAL," or "HIGHLY CONFIDENTIAL – ATTORNEYS' EYES ONLY"
25 on the thing, object or container within which it is stored; or (2) by specifically
26 identifying, in writing, the item and the level of confidentiality designation, where such
27 labeling is not feasible.

28

1 5.4 When a party wishes to designate as “CONFIDENTIAL,” or “HIGHLY
2 CONFIDENTIAL – ATTORNEYS’ EYES ONLY” materials produced by someone
3 other than the Designating Party (a “Producing Party”), such designation shall be made:
4

5 5.4.1 Within fifteen (15) business days from the date that the Designating
6 Party receives copies of the materials from the producing or disclosing entity; and
7

8 5.4.2 By notice to all parties to this action and to the Producing Party, if
9 such party is not a party to this action, identifying the materials to be designated with
10 particularity (either by production numbers or by providing other adequate
11 identification of the specific material). Such notice shall be sent by facsimile and
12 regular mail.
13

14 5.4.3. A party shall be permitted to designate as “CONFIDENTIAL,” or
15 “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY” material produced by a
16 Producing Party only where:
17

18 (a) The material being produced was provided to or developed by such
19 Producing Party: (i) under a written confidentiality agreement with the Designating
20 Party; or (ii) within a relationship with the Designating Party (or a party operating
21 under the control thereof) in which confidentiality is imposed by law (including, but not
22 limited, to the employment relationship and the vendor-customer relationship); and
23

24 (b) The material being produced would be considered confidential
25 material of the Designating Party under Section 2.1 of this Agreement if it were in the
26 possession of the Designating Party.
27

28 5.5 Upon notice of designation, all persons receiving notice of the requested
designation of materials shall:

1 5.5.1 Make no further disclosure of such Designated Material or
2 information contained therein, except as allowed in this Protective Order;

3
4 5.5.2 Take reasonable steps to notify any persons known to have
5 possession of or access to such Designated Materials of the effect of such designation
6 under this Protective Order; and

7
8 5.5.3 If “CONFIDENTIAL,” or “HIGHLY CONFIDENTIAL –
9 ATTORNEYS’ EYES ONLY” material or information contained therein is disclosed to
10 any person other than those entitled to disclosure in the manner authorized by this
11 Protective Order, the party responsible for the disclosure shall, immediately upon
12 learning of such disclosure, inform the Designating Party in writing of all pertinent
13 facts relating to such disclosure, and shall make every effort to prevent further
14 disclosure by the unauthorized person(s). Nothing in this paragraph, however, shall
15 limit any damages or relief (whether legal or equitable) which may be available to the
16 Designating Party in connection with any unauthorized disclosure.

17
18 6. Manner of Designating Deposition Testimony.

19 6.1 Deposition transcripts and portions thereof taken in this action may be
20 designated as “CONFIDENTIAL,” or “HIGHLY CONFIDENTIAL – ATTORNEYS’
21 EYES ONLY” during the deposition or after, in which case the portion of the transcript
22 containing Designated Material shall be identified in the transcript by the Court
23 Reporter as “CONFIDENTIAL,” or “HIGHLY CONFIDENTIAL – ATTORNEYS’
24 EYES ONLY.” The designated testimony shall be bound in a separate volume and
25 marked by the reporter accordingly.

26
27
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1 6.2 Where testimony is designated during the deposition, the Designating
2 Party shall have the right to exclude, at those portions of the deposition, all persons not
3 authorized by the terms of this Protective Order to receive such Designated Material.
4

5 6.3 Within thirty (30) days after a deposition transcript is certified by the court
6 reporter, any party may designate pages of the transcript and/or its exhibits as
7 Designated Material. During such thirty (30) day period, the transcript in its entirety
8 shall be treated as “CONFIDENTIAL” (except for those portions identified earlier as
9 “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY” which shall be treated
10 accordingly from the date of designation). If any party so designates such material, the
11 parties shall provide written notice of such designation to all parties within the thirty
12 (30) day period. Designated Material within the deposition transcript or the exhibits
13 thereto may be identified in writing by page and line, or by underlining and marking
14 such portions “CONFIDENTIAL,” “HIGHLY CONFIDENTIAL – ATTORNEYS’
15 EYES ONLY” and providing such marked-up portions to all counsel.
16

17 7. Copies. All complete or partial copies of a document that disclose Designated
18 Materials shall be subject to the terms of this Protective Order.
19

20 8. Court Procedures.

21 8.1 Disclosure of Designated Material to Court Officials. Subject to the
22 provisions of this section, Designated Material may be disclosed to the Court, Court
23 officials or employees involved in this action (including court reporters, persons
24 operating video recording equipment at depositions, and any special master, referee,
25 expert, technical advisor or Third-Party Consultant appointed by the Court), and to the
26 jury in this action, and any interpreters interpreting on behalf of any party or deponent.
27
28

1 8.2 Filing Designated Materials with the Court. Nothing in this Order shall
2 vary the requirements for filing under Seal imposed by the Federal Rules of Civil
3 Procedure or the Local Rules of this Court. If a party wishes to file with the Court any
4 document, transcript or thing containing information which has been designated
5 “CONFIDENTIAL,” or “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY”
6 the Party shall designate the material as set forth herein and file it with the Court in an
7 application for filing under seal under the Local Rules of this Court, with the material
8 bearing the legend:

9
10 “[CONFIDENTIAL, or HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES
11 ONLY] INFORMATION SUBJECT TO PROTECTIVE ORDER.”

12
13 The Application for Filing under Seal must show good cause for the under seal
14 filing. Filing the document under seal shall not bar any party from unrestricted use or
15 dissemination of those portions of the document that do not contain material designated
16 “CONFIDENTIAL,” or “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES
17 ONLY.” If a filing party fails to designate information as “CONFIDENTIAL,” or
18 “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY,” any party who in good
19 faith believes that designation and filing under seal is required by this Protective Order
20 may move the Court to file said information under seal within five (5) days of learning
21 of the defective filing. Notice of such designation shall be given to all parties. Nothing
22 in this provision relieves a party of liability for damages caused by failure to properly
23 file Designated Material under seal.

24
25 8.3 Retrieval of Designated Materials. The party responsible for lodging or
26 filing the Designated Materials shall be responsible for retrieving such Designated
27 Materials from the Court following the final termination of the action (including after
28 any appeals).

1 9. Objections

2 9.1 A party may challenge any designation under this Protective Order at any
3 time, on the grounds that the information or material does not meet the standards of
4 Sections 1 and 2, by following the procedure of Local Rule 37 of this Court.

5
6 9.2 The parties shall meet and confer in good faith prior to the filing of any
7 motion under this section.

8
9 10. Client Communication. Nothing in this Protective Order shall prevent or
10 otherwise restrict counsel from rendering advice to their clients and, in the course of
11 rendering such advice, relying upon the examination of Designated Material. In
12 rendering such advice and otherwise communicating with the client, however, counsel
13 shall not disclose any Designated Material, except as otherwise permitted by this
14 Protective Order.

15
16 11. No Prejudice.

17 11.1 This Protective Order shall not diminish any existing obligation or right
18 with respect to Designated Material, nor shall it prevent a disclosure to which the
19 Designating Party consented in writing before the disclosure takes place.

20
21 11.2 Unless the parties stipulate otherwise, evidence of the existence or
22 nonexistence of a designation under this Protective Order shall not be admissible for
23 any purpose during any proceeding on the merits of this action.

24
25 11.3 If any party required to produce documents contends that it inadvertently
26 produced any Designated Material without marking it with the appropriate legend, or
27 inadvertently produced any Designated Material with an incorrect legend, the
28 producing party may give written notice to the receiving party or parties, including

1 appropriately stamped substitute copies of the Designated Material. If the parties
2 collectively agree to replacement of the Designated Material, then the documents will
3 be so designated. Within five (5) business days of receipt of the substitute copies, the
4 receiving party shall return the previously unmarked or mismarked items and all copies
5 thereof. If the parties do not collectively agree to replacement of the Designated
6 Material, the producing party shall comply with the procedure of Local Rule 37 in
7 seeking protection for the inadvertently produced material.

8
9 11.4 Neither the provisions of this Protective Order, nor the filing of any
10 material under seal, shall prevent the use in open court, in deposition, at any hearing, or
11 at trial of this case of any material that is subject to this Protective Order or filed under
12 seal pursuant to its provisions. At deposition, the party using Designated Material must
13 request that the portion of the proceeding where use is made be conducted so as to
14 exclude persons not qualified to receive such Designated Material. At trial, the party
15 using Designated Material must request that the portion of the proceeding where use is
16 made be conducted so as to exclude persons not qualified to receive such Designated
17 Material. All confidentiality designations or legends placed pursuant to this Stipulated
18 Protective Order shall be removed from any document or thing used as a trial exhibit in
19 this case. The removal of such confidentiality designations or legends under the
20 preceding sentence shall not affect the treatment of such documents and things as
21 Designated Material under this Stipulated Protective Order. Upon request of a party, the
22 parties shall meet and confer concerning the use and protection of Designated Material
23 in open court at any hearing. Prior to the pretrial conference, the parties shall meet and
24 confer concerning appropriate methods for dealing with Designated Material at trial.

25
26 11.5 Any inadvertent production of documents containing privileged
27 information shall not be deemed to be a waiver of the attorney-client privilege, work
28 product doctrine, or any other applicable privilege or doctrines. All parties specifically

1 reserve the right to demand the return of any privileged documents that it may produce
2 inadvertently during discovery if the producing party determines that such documents
3 contain privileged information. After receiving notice of such inadvertent production by
4 the producing party, the receiving party agrees to make reasonable and good faith
5 efforts to locate and return to the producing party all such inadvertently produced
6 documents.

7

8 12. Modification and Survival.

9 12.1 Modification. The parties reserve the right to seek modification of this
10 Protective Order at any time for good cause. The parties agree to meet and confer prior
11 to seeking to modify this Protective Order for any reason. The restrictions imposed by
12 this Protective Order may only be modified or terminated by written stipulation of all
13 parties or by order of this Court. Parties entering into this Protective Order will not be
14 deemed to have waived any of their rights to seek later amendment to this Protective
15 Order.

16

17 12.2 Trial. The parties understand that this Protective Order does not extend to
18 trial of this Action. Once the case proceeds to trial, all of the information that was
19 designated as confidential and/or kept and maintained pursuant to the terms of this
20 Protective Order becomes public and will be presumptively available to all members of
21 the public, including the press, unless good cause is shown to the district judge in
22 advance of the trial to proceed otherwise.

23

24 12.3 Survival and Return of Designated Material. This Protective Order shall
25 survive termination of this action prior to trial of this action. Upon final termination of
26 the action prior to trial of this action, and at the written request of the Designating
27 Party, all Designated Material, including deposition testimony, and all copies thereof,
28 shall be returned to counsel for the Designating Party (at the expense of the Designating

1 Party) or (at the option and expense of the requesting party) shall be destroyed. Upon
2 request for the return or destruction of Designated Materials, counsel shall certify their
3 compliance with this provision and shall serve such certification to counsel for the
4 Designating Party not more than ninety (90) days after the written request to return or
5 destroy Designated Materials. Counsel who have submitted one or more Certificate(s)
6 prepared pursuant to Section 3 do not need to retain such Certificate(s) past the ninety
7 (90) day period.

8

9 13. No Contract. This Protective Order shall not be construed to create a contract
10 between the parties or between the parties and their respective counsel.

11

12 14. Court's Retention of Jurisdiction. The Court retains jurisdiction after final
13 termination of the action prior to trial, to enforce this Stipulation.

14

15 15. Exception for Public Information. Nothing in this Stipulation shall be deemed in
16 any way to restrict the use of documents or information which are lawfully obtained or
17 publicly available to a party independently of discovery in this action, whether or not
18 the same material has been obtained during the course of discovery in the action and
19 whether or not such documents or information have been designated hereunder.
20 However, in the event of a dispute regarding such independent acquisition, a party
21 wishing to use any independently acquired documents or information shall bear the
22 burden of proving independent acquisition.

23

24 16. Use for This Litigation Only

25 16.1 Items designated under this Order shall not be used by any recipient or
26 disclosed to anyone for any purpose other than in connection with the above-captioned
27 action or subsequent litigation involving alleged infringers revealed in this litigation.

28

1 16.2 In the event that any party and/or recipient of Designated Material
2 pursuant to this Order is served with legal process or otherwise requested to disclose
3 any Designated Material (the “Disclosing Entity”) by any person or entity not covered
4 by this Order, including, without limitation, other insurance carriers, state, local or
5 federal agencies, or litigants in other litigation (the “Requesting Entity”), the Disclosing
6 Entity shall give notice thereof, by telephone and facsimile, as soon as practicable but
7 in any event sufficiently prior to the requested disclosure to afford an opportunity to
8 intervene for any party who may be adversely affected by the disclosure except to the
9 extent that such notice is precluded by law.

10

11 16.3 The Parties acknowledge and agree that Receiving Party may not use
12 Designated Material marked by a Designating Party to examine or cross-examine an
13 employee or consultant, or other individual or corporate representative who is not
14 associated with or employed by such Designating Party.

15

16 17. Miscellaneous.

17 17.1 Right to Assert Other Objections. By stipulating to the entry of this Order,
18 no Party waives any right it otherwise would have to object to disclosing or producing
19 any information or item on any ground not addressed in this Order. Similarly, no Party
20 waives any right to object on any ground to the use in evidence of any Designated
21 Material covered by this Order. Moreover, this Order shall not preclude or limit any
22 Party’s right to seek further and additional protection against or limitation upon
23 production of documents produced in response to discovery.

24

25 17.2 Other Privileges. Nothing in this Order shall require disclosure of
26 materials that a Party contends are protected from disclosure by the attorney-client
27 privilege or the attorney work-product doctrine. This provision shall not, however, be
28 construed to preclude any Party from moving the Court for an order directing the

1 disclosure of such materials where it disputes the claim of attorney-client privilege or
2 attorney work-product doctrine.

3
4 17.3 Self-Disclosure. Nothing in this Order shall affect the right of the
5 Designating Party to disclose the Designating Party's own Confidential information or
6 items to any person or entity. Such disclosure shall not waive any of the protections of
7 this Order.

8
9 17.4 In the event the parties dispute the authenticity or application of the
10 business records exception to the hearsay rule as to any Designated Material covered by
11 this agreement, the parties shall meet and confer, and if they are unable to resolve the
12 dispute, submit the matter for resolution by the Magistrate Judge. Provided, however,
13 the mere production of the Designated Material under this agreement, shall create no
14 inference that the Designated Material is authentic or subject to the business records
15 exceptions.

16
17 **STIPULATION**

18 IT IS HEREBY STIPULATED by and among the parties, through their
19 respective counsel, this Honorable Court consenting, that the foregoing Stipulated
20 Protective Order may be entered in this action.

21
22 **SO STIPULATED.**

23
24 Dated: July 6, 2016

Mark D. Kremer
Mark Riedel, members of
CONKLE, KREMER & ENGEL
Professional Law Corporation

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By: /s/Mark Riedel
Mark Riedel
Attorneys for Defendants All Fashions
Clothing, Inc., Ross Stores, Inc. and DDs
Discounts

Dated: July 6, 2016

C. Yong Jeong
Amy Choe
JEONG & LIKENS, L.C.

By: /s/C. Yong Jeong
C. Yong Jeong
Attorneys for Plaintiff Unicolors, Inc.

Pursuant to Civil L.R. 5-4.3.4(a)(2)(i), the filer attests that all other signatories listed, and on whose behalf this filing is submitted, concur in the filing's content and have authorized the filing.

FOR GOOD CAUSE SHOWN, IT IS SO ORDERED.

Dated: 7/11/16

Patrick J. Walsh

Patrick J. Walsh
United States District Court, Magistrate Judge

Exhibit A

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**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA, WESTERN DIVISION**

UNICOLORS, INC..

Plaintiff,

v.

ALL FASHIONS CLOTHING, INC.; a
New York Corporation; ROSS
STORES, INC. a California
Corporation; DDs Discounts, a
California Corporation; and DOES 1-
20, inclusive,

Defendants.

CASE No. 2:15-cv-08475-BRO-PJW

DISCOVERY MATTER

**STIPULATED PROTECTIVE
ORDER**

Honorable Beverly Reid O'Connell,
Judge Presiding

Honorable Patrick J. Walsh, Magistrate
Judge

Complaint filed: October 29, 2015
Trial Date: None

The undersigned hereby acknowledges that he/she has read the STIPULATED PROTECTIVE ORDER entered in the above captioned litigation, and that he/she fully understands and agrees to abide by the obligations and conditions thereof.

Dated: _____

(Signature)

(Print Name)