

1 Ian A. Stewart (SBN 250689)
 2 Gregory K. Lee (SBN 220354)
 3 Nicole A. Aaronson (SBN 309263)
 4 **WILSON ELSER MOSKOWITZ**
 5 **EDELMAN & DICKER LLP**
 6 555 South Flower Street, Suite 2900
 Los Angeles, California 90071
 Telephone: (213) 443-5100
 Facsimile: (213) 443-5101
 Email: Ian.Stewart@wilsonelser.com;
 Gregory.Lee@wilsonelser.com;
 Nicole.Aaronson@wilsonelser.com

7 Attorneys for Defendant
 8 **SPRING IMPORT, INC.**

9
 10 **UNITED STATES DISTRICT COURT**
 11 **CENTRAL DISTRICT OF CALIFORNIA**

12 UNICOLORS, INC., a California
 13 Corporation,
 14
 15 Plaintiff,

16 vs.

17 LUXURY DIVAS CORPORATION, a
 18 New Jersey Corporation; and DOES 1
 19 through 10,
 20 Defendants.

Case No. 2:16-cv-05975-AB-JC
 Hon. André Birotte

**STIPULATION AND MODIFIED
 PROTECTIVE ORDER**

[CHANGES MADE BY COURT]

22 Pursuant to Rule 26(c) of the Federal Rules of Civil Procedure, Plaintiff Unicolors,
 23 Inc. (“Plaintiff” or “Unicolors”), and Doe Defendant Spring Import, Inc. (“Spring Import”
 24 or “Defendant”), through counsel undersigned, jointly submit this Stipulated Protective
 25 Order to govern the handling of information and materials produced in the course of
 26 discovery or filed with the Court in this action;

27 ///

28 ///

1 **1. PURPOSES, LIMITATIONS AND GOOD CAUSE.**

2 1.1. Purpose and Limitations. Disclosure and discovery activity in this action are likely
3 to involve production of confidential, proprietary, or private information for which
4 special protection from public disclosure and from use for any purpose other than
5 prosecuting this litigation may be warranted. Accordingly, the parties hereby
6 stipulate to and petition the court to enter the following Stipulated Protective Order.
7 The parties acknowledge that this Order does not confer blanket protections on all
8 disclosures or responses to discovery and that the protection it affords from public
9 disclosure and use extends only to the limited information or items that are entitled
10 to confidential treatment under the applicable legal principles. The parties further
11 acknowledge, as set forth in Section 12.3, below, that this Stipulated Protective
12 Order does not entitle them to file confidential information under seal. Rather,
13 when the parties seek permission from the court to file material under seal, the
14 parties must comply with Civil Local Rule 79-5 and with any pertinent orders of the
15 assigned District Judge and Magistrate Judge..

16 1.2. Good Cause Statement. It is the intent of the parties and the Court that information
17 will not be designated as confidential for tactical reasons in this case and that
18 nothing be so designated without a good faith belief that there is good cause why it
19 should not be part of the public record of this case. Generally, information and
20 documents shall be designated where the Designating Party believes is proprietary,
21 confidential, and/or is trade secret, and which the Designating Party would not
22 publically release. Examples of confidential information that the parties may seek
23 to protect from unrestricted or unprotected disclosure include:

- 24 • Information that is the subject of a non-disclosure or confidentiality
25 agreement or obligation;
- 26 • The names, or other information tending to reveal the identity of a Party's
27 supplier, designer, distributor, or customer;
- 28 • Agreements with third-parties;

- 1 • Research and development information;
- 2 • Proprietary engineering or technical information, including product design,
- 3 manufacturing techniques, processing information, drawings, memoranda and
- 4 reports;
- 5 • Information related to budgets, sales, profits, costs, margins, product pricing,
- 6 or other internal financial/accounting information, including non-public
- 7 information related to financial condition or performance and income or other
- 8 non-public tax information;
- 9 • Information related to internal operations including personnel information;
- 10 • Information related to past, current and future product development;
- 11 • Information related to past, current and future market analyses and business
- 12 and marketing development, including plans, strategies, forecasts and
- 13 competition;
- 14 • Information related a treatment received by a specific patient (as applicable);
- 15 and,
- 16 • Trade secrets (as defined by the jurisdiction in which the information is
- 17 located).

18 Unrestricted or unprotected disclosure of such confidential, technical, commercial or
19 personal information would result in prejudice or harm to the Designating Party by
20 revealing the Designating Party's competitive confidential information, which has
21 been developed at the expense of the Designating Party and which represents
22 valuable tangible and intangible assets of that party. Additionally, privacy interests
23 must be safeguarded. Accordingly, the parties respectfully submit that there is good
24 cause for the entry of this Protective Order.

25 **2. DEFINITIONS.**

26 2.1. Action: The above captioned federal lawsuit.

27 2.2. "ATTORNEYS' EYES ONLY" Information or Items: extremely sensitive

28 "Confidential Information or Items," disclosure of which to another Party or Non-

1 Party would create a substantial risk of serious harm that could not be avoided by
2 less restrictive means.

3 2.3. Challenging Party: a Party or Non-Party that challenges the designation of
4 information or items under this Order.

5 2.4. “CONFIDENTIAL” Information or Items: information (regardless of how it is
6 generated, stored or maintained) or tangible things that qualify for protection under
7 Federal Rule of Civil Procedure 26(c).

8 2.5. Counsel (without qualifier): Outside Counsel of Record and House Counsel (as well
9 as their support staff).

10 2.6. Designating Party: a Party or Non-Party that designates information or items that it
11 produces in disclosures or in responses to discovery as “CONFIDENTIAL” or
12 “ATTORNEYS’ EYES ONLY”.

13 2.7. Disclosure or Discovery Material: all items or information, regardless of the
14 medium or manner in which it is generated, stored, or maintained (including, among
15 other things, testimony, transcripts, and tangible things), that are produced or
16 generated in disclosures or responses to discovery in this matter.

17 2.8. Expert: a person with specialized knowledge or experience in a matter pertinent to
18 the litigation who (1) has been retained by a Party or its counsel to serve as an
19 expert witness or as a consultant in this action, (2) is not a past or current employee
20 of a Party or of a Party’s competitor, and (3) at the time of retention, is not
21 anticipated to become an employee of a Party or of a Party’s competitor.

22 2.9. House Counsel: attorneys who are employees of a party to this action. House
23 Counsel does not include Outside Counsel of Record or any other outside counsel.

24 2.10. Non-Party: any natural person, partnership, corporation, association, or other legal
25 entity not named as a Party to this action.

26 2.11. Outside Counsel of Record: attorneys who are not employees of a party to this
27 action but are retained to represent or advise a party to this action and have appeared
28

1 in this action on behalf of that party or are affiliated with a law firm which has
2 appeared on behalf of that party.

3 2.12. Party: any party to this action, including all of its officers, directors, employees,
4 consultants, retained experts, and Outside Counsel of Record (and their support
5 staffs).

6 2.13. Producing Party: a Party or Non-Party that produces Disclosure or Discovery
7 Material in this action.

8 2.14. Professional Vendors: persons or entities that provide litigation support services
9 (e.g., photocopying, videotaping, translating, preparing exhibits or demonstrations,
10 and organizing, storing, or retrieving data in any form or medium) and their
11 employees and subcontractors.

12 2.15. Protected Material: any Disclosure or Discovery Material that is designated as
13 “CONFIDENTIAL,” or as “ATTORNEYS’ EYES ONLY.”

14 2.16. Receiving Party: a Party that receives Disclosure or Discovery Material from a
15 Producing Party.

16 **3. SCOPE.** The protections conferred by this Stipulation and Order cover not only
17 Protected Material (as defined above), but also (1) any information copied or extracted
18 from Protected Material; (2) all copies, excerpts, summaries, or compilations of
19 Protected Material; and (3) any deposition testimony, conversations, or presentations by
20 Parties or their Counsel that might reveal Protected Material, other than during a court
21 hearing or at trial. Any use of Protected Material during a court hearing or at trial shall
22 be governed by the orders of the presiding judge. This Order does not govern the use of
23 Protected Material during a court hearing or at trial.

24 3.1. Exclusions. The protections conferred by this Stipulation and Order do not cover the
25 following information: (a) any information that is in the public domain at the time of
26 disclosure to a Receiving Party or becomes part of the public domain after its
27 disclosure to a Receiving Party as a result of publication not involving a violation of
28 this Order, including becoming part of the public record through a court hearing,

1 trial or otherwise; (b) any information known to the Receiving Party prior to the
2 disclosure or obtained by the Receiving Party after the disclosure from a source who
3 obtained the information lawfully and under no obligation of confidentiality to the
4 Designating Party; and (c) any Protected Material that is disclosed during a court
5 hearing or at trial that was not afforded protection by the presiding judge.

6 **4. DURATION.** Consistent with the exclusions set forth in Section 3.1, even after final
7 disposition of this litigation, the confidentiality obligations imposed by this Order shall
8 remain in effect until a Designating Party agrees otherwise in writing or a court order
9 otherwise directs. Final disposition shall be deemed to be the later of (1) dismissal of all
10 claims and defenses in this action, with or without prejudice; and (2) final judgment
11 herein after the completion and exhaustion of all appeals, rehearings, remands, trials, or
12 reviews of this action, including the time limits for filing any motions or applications for
13 extension of time pursuant to applicable law.

14 **5. DESIGNATING PROTECTED MATERIAL.**

15 5.1. Exercise of Restraint and Care in Designating Material for Protection. Each Party or
16 Non-Party that designates information or items for protection under this Order must
17 take care to limit any such designation to specific material that qualifies under the
18 appropriate standards. To the extent it is practical to do so, the Designating Party
19 must designate for protection only those parts of material, documents, items, or oral
20 or written communications that qualify – so that other portions of the material,
21 documents, items, or communications for which protection is not warranted are not
22 swept unjustifiably within the ambit of this Order. Mass, indiscriminate, or
23 routinized designations are prohibited. Designations that are shown to be clearly
24 unjustified or that have been made for an improper purpose (e.g., to unnecessarily
25 encumber or retard the case development process or to impose unnecessary
26 expenses and burdens on other parties) expose the Designating Party to sanctions. If
27 it comes to a Designating Party’s attention that information or items that it
28 designated for protection do not qualify for protection at all or do not qualify for the

1 level of protection initially asserted, that Designating Party must promptly notify all
2 other parties that it is withdrawing the mistaken/inapplicable designation.

3 5.2. Manner and Timing of Designations. Except as otherwise provided in this Order or
4 as otherwise stipulated or ordered, Disclosure or Discovery Material that qualifies
5 for protection under this Order must be clearly so designated before the material is
6 disclosed or produced. Designation in conformity with this Order requires:

7 5.2.1. **Documents**: for information in documentary form (e.g., paper or electronic
8 documents, but excluding transcripts of depositions), that the Producing Party
9 affix the legend “CONFIDENTIAL” or “ATTORNEYS’ EYES ONLY” to each
10 page that contains protected material. If only a portion or portions of the
11 material on a page qualifies for protection, the Producing Party also must clearly
12 identify the protected portion(s) (e.g., by making appropriate markings in the
13 margins) and must specify, for each portion, the level of protection being
14 asserted.

15 5.2.2. **Originals**: A Party or Non-Party that makes original documents or materials
16 available for inspection need not designate them for protection until after the
17 inspecting Party has indicated which material it would like copied and produced.
18 During the inspection and before the designation, all of the material made
19 available for inspection shall be deemed “ATTORNEYS’ EYES ONLY.” After
20 the inspecting Party has identified the documents it wants copied and produced,
21 the Producing Party must determine which documents, or portions thereof,
22 qualify for protection under this Order. Then, before producing the specified
23 documents, the Producing Party must affix the appropriate legend
24 (“CONFIDENTIAL” or “ATTORNEYS’ EYES ONLY” to each page that
25 contains Protected Material. If only a portion or portions of the material on a
26 page qualifies for protection, the Producing Party also must clearly identify the
27 protected portion(s) (e.g., by making appropriate markings in the margins) and
28 must specify, for each portion, the level of protection being asserted.

1 5.2.3. **Testimony:** for testimony given in deposition that the Designating Party
2 identify on the record, before the close of the deposition, all protected testimony
3 and specify the level of protection being asserted. When it is impractical to
4 identify separately each portion of testimony that is entitled to protection and it
5 appears that substantial portions of the testimony may qualify for protection, the
6 Designating Party may invoke on the record (before the deposition is concluded)
7 a right to have up to 21 days to identify the specific portions of the testimony as
8 to which protection is sought and to specify the level of protection being
9 asserted. Only those portions of the testimony that are appropriately designated
10 for protection within the 21 days shall be covered by the provisions of this
11 Stipulated Protective Order.

12 5.2.4. **Other items:** for information produced in some form other than documentary
13 and for any other tangible items, that the Producing Party affix in a prominent
14 place on the exterior of the container or containers in which the information or
15 item is stored the legend “CONFIDENTIAL” or “ATTORNEYS’ EYES
16 ONLY”. If only a portion or portions of the information or item warrant
17 protection, the Producing Party, to the extent practicable, shall identify the
18 protected portion(s) and specify the level of protection being asserted.

19 5.3. Inadvertent Failures to Designate. If timely corrected, an inadvertent failure to
20 designate qualified information or items does not, standing alone, waive the
21 Designating Party’s right to secure protection under this Order for such material.
22 Upon timely correction of a designation, the Receiving Party must make reasonable
23 efforts to assure that the material is treated in accordance with the provisions of this
24 Order.

25 **6. CHALLENGING CONFIDENTIALITY DESIGNATIONS.**

26 6.1. Timing of Challenges. Any Party or Non-Party may challenge a designation of
27 confidentiality at any time that is consistent with the Court’s scheduling Order.
28 Unless a prompt challenge to a Designating Party’s confidentiality designation is

1 necessary to avoid foreseeable, substantial unfairness, unnecessary economic
2 burdens, or a significant disruption or delay of the litigation, a Party does not waive
3 its right to challenge a confidentiality designation by electing not to mount a
4 challenge promptly after the original designation is disclosed. Any motion
5 challenging confidentiality designations pursuant to this paragraph must be brought
6 in strict compliance with Local Rules 37-1 and 37-2, in their entirety, including the
7 Joint Stipulation Requirement.

8 6.2. Meet and Confer. The Challenging Party shall initiate the dispute resolution process
9 under local Rule 37.1 et seq.

10 6.3. The burden of persuasion in any such challenge proceeding shall be on the
11 Designating Party. Frivolous challenges and those made for an improper purpose
12 (e.g., to harass or impose unnecessary expenses and burdens on other parties) may
13 expose the Challenging Party to sanctions. Unless the Designating Party has waived
14 the confidentiality designation by failing to file an applicable motion (e.g. to retain
15 confidentiality), all parties shall continue to afford the material in question the level
16 of protection to which it is entitled under the Producing Party's designation until the
17 court rules on the challenge.

18 **7. ACCESS TO AND USE OF PROTECTED MATERIAL.**

19 7.1. Basic Principles. A Receiving Party may use Protected Material that is disclosed or
20 produced by another Party or by a Non-Party in connection with this case only for
21 prosecuting, defending, or attempting to settle this litigation. Such Protected
22 Material may be disclosed only to the categories of persons and under the conditions
23 described in this Order. When the litigation has been terminated, a Receiving Party
24 must comply with the provisions of section 13 below (FINAL DISPOSITION).
25 Protected Material must be stored and maintained by a Receiving Party at a location
26 and in a secure manner that ensures that access is limited to the persons authorized
27 under this Order.
28

1 7.2. Disclosure of “CONFIDENTIAL” Information or Items. Unless otherwise ordered
2 by the court or permitted in writing by the Designating Party, a Receiving Party may
3 disclose any information or item designated “CONFIDENTIAL” only to:

4 7.2.1. the Receiving Party’s Outside Counsel of Record in this action, as well as
5 employees of said Outside Counsel of Record to whom it is reasonably
6 necessary to disclose the information for this Action;

7 7.2.2. the officers, directors, and employees (including House Counsel) of the
8 Receiving Party to whom disclosure is reasonably necessary for this litigation
9 and who have signed the “Acknowledgment and Agreement to Be Bound”
10 (Exhibit A);

11 7.2.3. Experts (as defined in this Order) of the Receiving Party to whom disclosure is
12 reasonably necessary for this litigation and who have signed the
13 “Acknowledgment and Agreement to Be Bound” (Exhibit A);

14 7.2.4. the court and its personnel;

15 7.2.5. court reporters and their staff;

16 7.2.6. professional jury or trial consultants, and Professional Vendors to whom
17 disclosure is reasonably necessary for this litigation and who have signed the
18 “Acknowledgment and Agreement to Be Bound” (Exhibit A);

19 7.2.7. the author or recipient of a document containing the information or a custodian
20 or other person who otherwise possessed or knew the information;

21 7.2.8. during their depositions, witnesses in the action to whom disclosure is
22 reasonably necessary and who have signed the “Acknowledgment and
23 Agreement to Be Bound” (Exhibit A), unless otherwise agreed by the
24 Designating Party or ordered by the court. Pages of transcribed deposition
25 testimony or exhibits to depositions that reveal Protected Material must be
26 separately bound by the court reporter and may not be disclosed to anyone
27 except as permitted under this Stipulated Protective Order; and
28

1 7.2.9. Any mediator or settlement officer, and their supporting personnel, mutually
2 agreed upon by any of the parties engaged in settlement discussions.

3 7.3. Disclosure of “ATTORNEYS’ EYES ONLY” Information or Items. Unless
4 otherwise ordered by the court or permitted in writing by the Designating Party, a
5 Receiving Party may disclose any information or item designated “ATTORNEYS’
6 EYES ONLY” only to:

7 7.3.1. the Receiving Party’s Outside Counsel of Record in this action, as well as
8 employees of said Outside Counsel of Record to whom it is reasonably
9 necessary to disclose the information for this Action;

10 7.3.2. Experts of the Receiving Party (1) to whom disclosure is reasonably necessary
11 for this litigation, and (2) who have signed the “Acknowledgment and
12 Agreement to Be Bound” (Exhibit A);

13 7.3.3. the court and its personnel;

14 7.3.4. court reporters and their staff;

15 7.3.5. professional jury or trial consultants, and Professional Vendors to whom
16 disclosure is reasonably necessary for this litigation and who have signed the
17 “Acknowledgment and Agreement to Be Bound” (Exhibit A);

18 7.3.6. the author or recipient of a document containing the information or a custodian
19 or other person who otherwise possessed or knew the information; and

20 7.3.7. Any mediator or settlement officer, and their supporting personnel, mutually
21 agreed upon by any of the parties engaged in settlement discussions.

22 7.4. Procedures for Approving or Objecting to Disclosure of “ATTORNEYS’ EYES
23 ONLY” Information or Items to Designated House Counsel or Experts.

24 7.4.1. Unless otherwise ordered by the court or agreed to in writing by the
25 Designating Party, a Party that seeks to disclose to Designated House Counsel
26 any information or item that has been designated “ATTORNEYS’ EYES
27 ONLY” pursuant to paragraph 7.3 et seq. first must make a written request to the
28 Designating Party that (1) sets forth the full name of the Designated House

1 Counsel and the city and state of his or her residence, and (2) describes the
2 Designated House Counsel’s current and reasonably foreseeable future primary
3 job duties and responsibilities in sufficient detail to determine if House Counsel
4 is involved, or may become involved, in any competitive decision-making.

5 7.4.2. Unless otherwise ordered by the court or agreed to in writing by the
6 Designating Party, a Party that seeks to disclose to an Expert (as defined in this
7 Order) any information or item that has been designated “ATTORNEYS’ EYES
8 ONLY” pursuant to paragraph 7.3 et seq. first must make a written request to the
9 Designating Party that (1) identifies the general categories of “ATTORNEYS’
10 EYES ONLY” information that the Receiving Party seeks permission to disclose
11 to the Expert, (2) sets forth the full name of the Expert and the city and state of
12 his or her primary residence, (3) attaches a copy of the Expert’s current resume,
13 (4) identifies the Expert’s current employer(s), (5) identifies each person or
14 entity from whom the Expert has received compensation or funding for work in
15 his or her areas of expertise or to whom the expert has provided professional
16 services, including in connection with a litigation, at any time during the
17 preceding five years, and (6) identifies (by name and number of the case, filing
18 date, and location of court) any litigation in connection with which the Expert
19 has offered expert testimony, including through a declaration, report, or
20 testimony at a deposition or trial, during the preceding five years.

21 7.4.3. A Party that makes a request and provides the information specified in the
22 preceding respective paragraphs may disclose the subject Protected Material to
23 the identified Designated House Counsel or Expert unless, within 14 days of
24 delivering the request, the Party receives a written objection from the
25 Designating Party. Any such objection must set forth in detail the grounds on
26 which it is based.

27 7.4.4. A Party that receives a timely written objection must meet and confer with the
28 Designating Party (through direct voice to voice dialogue) to try to resolve the

1 matter by agreement within seven days of the written objection. If no agreement
2 is reached, the Party seeking to make the disclosure to Designated House
3 Counsel or the Expert may file a motion as provided in Civil Local Rule 7 (and
4 in compliance with Civil Local Rule 79-5, if applicable) seeking permission
5 from the court to do so. Any such motion must describe the circumstances with
6 specificity, set forth in detail the reasons why the disclosure to Designated
7 House Counsel or the Expert is reasonably necessary, assess the risk of harm
8 that the disclosure would entail, and suggest any additional means that could be
9 used to reduce that risk. In addition, any such motion must be accompanied by a
10 competent declaration describing the parties' efforts to resolve the matter by
11 agreement (i.e., the extent and the content of the meet and confer discussions)
12 and setting forth the reasons advanced by the Designating Party for its refusal to
13 approve the disclosure. **Any motion to challenge a Party's designation of
14 material as Protected Material or seeking permission to disclose Protected
15 Material to Designated House Counsel or an Expert must be brought in
16 strict compliance with Local Rules 37-1 and 37-2, in their entirety,
17 including the Joint Stipulation Requirement.**

18 In any such proceeding, the Party opposing disclosure to Designated House Counsel
19 or the Expert shall bear the burden of proving that the risk of harm that the disclosure
20 would entail (under the safeguards proposed) outweighs the Receiving Party's need to
21 disclose the Protected Material to its Designated House Counsel or Expert.

22 **8. PROTECTED MATERIAL SUBPOENAED OR ORDERED PRODUCED IN**
23 **OTHER LITIGATION.** If a Party is served with a subpoena or a court order issued in
24 other litigation that compels disclosure of any information or items designated in this
25 action as "CONFIDENTIAL" or "ATTORNEYS' EYES ONLY" that Party must: (a)
26 promptly notify in writing the Designating Party. Such notification shall include a copy
27 of the subpoena or court order; (b) promptly notify in writing the party who caused the
28 subpoena or order to issue in the other litigation that some or all of the material covered

1 by the subpoena or order is subject to this Protective Order. Such notification shall
2 include a copy of this Stipulated Protective Order; and (c) cooperate with respect to all
3 reasonable procedures sought to be pursued by the Designating Party whose Protected
4 Material may be affected.

5 8.1. Right to Seek Protective Order. If the Designating Party timely seeks a protective
6 order, the Party served with the subpoena or court order shall not produce any
7 information designated in this action as “CONFIDENTIAL” or “ATTORNEYS’
8 EYES ONLY” before a determination by the court from which the subpoena or
9 order issued, unless the Party has obtained the Designating Party’s permission or
10 unless otherwise required by the law or court order. The Designating Party shall
11 bear the burden and expense of seeking protection in that court of its confidential
12 material – and nothing in these provisions should be construed as authorizing or
13 encouraging a Receiving Party in this action to disobey a lawful directive from
14 another court.

15 **9. A NON-PARTY’S PROTECTED MATERIAL SOUGHT TO BE PRODUCED IN**
16 **THIS LITIGATION.**

17 9.1. The terms of this Order are applicable to information produced by a Non-Party in
18 this action and designated as “CONFIDENTIAL” or “ATTORNEYS’ EYES
19 ONLY”. Such information produced by Non-Parties in connection with this
20 litigation is protected by the remedies and relief provided by this Order. Nothing in
21 these provisions should be construed as prohibiting a Non-Party from seeking
22 additional protections.

23 9.2. In the event that a Party is required, by a valid discovery request, to produce a Non-
24 Party’s confidential information in its possession, and the Party is subject to an
25 agreement with the Non-Party not to produce the Non-Party’s confidential
26 information, then the Party shall: (a) promptly notify in writing the Requesting Party
27 and the Non-Party that some or all of the information requested is subject to a
28 confidentiality agreement with a Non-Party; (b) promptly provide the Non-Party

1 with a copy of the Stipulated Protective Order in this litigation, the relevant
2 discovery request(s), and a reasonably specific description of the information
3 requested; and (c) make the information requested available for inspection by the
4 Non-Party.

5 9.3. If the Non-Party fails to object or seek a protective order from this court within 14
6 days of receiving the notice and accompanying information, the Receiving Party
7 may produce the Non-Party's confidential information responsive to the discovery
8 request. If the Non-Party timely seeks a protective order, the Receiving Party shall
9 not produce any information in its possession or control that is subject to the
10 confidentiality agreement with the Non-Party before a determination by the court
11 unless otherwise required by the law or court order. Absent a court order to the
12 contrary, the Non-Party shall bear the burden and expense of seeking protection in
13 this court of its Protected Material.

14 **10.UNAUTHORIZED DISCLOSURE OF PROTECTED MATERIAL.** If a Receiving
15 Party learns that, by inadvertence or otherwise, it has disclosed Protected Material to
16 any person or in any circumstance not authorized under this Stipulated Protective Order,
17 the Receiving Party must immediately (a) notify in writing the Designating Party of the
18 unauthorized disclosures, (b) use its best efforts to retrieve all unauthorized copies of
19 the Protected Material, (c) inform the person or persons to whom unauthorized
20 disclosures were made of all the terms of this Order, and (d) request such person or
21 persons to execute the "Acknowledgment and Agreement to Be Bound" that is attached
22 hereto as Exhibit A.

23 **11.INADVERTENT PRODUCTION OF PRIVILEGED OR OTHERWISE**
24 **PROTECTED MATERIAL.** When a Producing Party gives notice to Receiving
25 Parties that certain inadvertently produced material is subject to a claim of privilege or
26 other protection, the obligations of the Receiving Parties are those set forth in Federal
27 Rule of Civil Procedure 26(b)(5)(B). This provision is not intended to modify whatever
28 procedure may be established in an e-discovery order that provides for production

1 without prior privilege review. Pursuant to Federal Rule of Evidence 502(d) and (e),
2 insofar as the parties reach an agreement on the effect of disclosure of a communication
3 or information covered by the attorney-client privilege or work product protection, the
4 parties may incorporate their agreement in the stipulated protective order submitted to
5 the court.

6 **12.MISCELLANEOUS.**

7 12.1. Right to Further Relief. Nothing in this Order abridges the right of any person to
8 seek its modification by the court in the future.

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

14 12.3. Filing Protected Material. Without written permission from the Designating
15 Party or a court order secured after appropriate notice to all interested persons, a
16 Party may not file in the public record in this action any Protected Material. A Party
17 that seeks to file under seal any Protected Material must comply with Civil Local
18 Rule 79-5 and with any pertinent orders of the assigned District Judge and
19 Magistrate Judge. Protected Material may only be filed under seal pursuant to a
20 court order authorizing the sealing of the specific Protected Material at issue. If a
21 Party's request to file Protected Material under seal is denied by the court, then the
22 Receiving Party may file the information in the public record unless otherwise
23 instructed by the court.

24 **13.FINAL DISPOSITION.** Within 60 days after the final disposition of this action, as
25 defined in paragraph 4, each Receiving Party must return all Protected Material to the
26 Producing Party or destroy such material. As used in this subdivision, "all Protected
27 Material" includes all copies, abstracts, compilations, summaries, and any other format
28 reproducing or capturing any of the Protected Material. Whether the Protected Material

1 is returned or destroyed, the Receiving Party must submit a written certification to the
2 Producing Party (and, if not the same person or entity, to the Designating Party) by the
3 60-day deadline that (1) identifies (by category, where appropriate) all the Protected
4 Material that was returned or destroyed and (2) affirms that the Receiving Party has not
5 retained any copies, abstracts, compilations, summaries or any other format reproducing
6 or capturing any of the Protected Material. Notwithstanding this provision, Counsel are
7 entitled to retain an archival copy of all pleadings, motion papers, trial, deposition, and
8 hearing transcripts, legal memoranda, correspondence, deposition and trial exhibits,
9 expert reports, attorney work product, and consultant and expert work product, even if
10 such materials contain Protected Material. Any such archival copies that contain or
11 constitute Protected Material remain subject to this Protective Order as set forth in
12 Section 4 (DURATION).

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

16 ///

17 ///

18 IT IS SO STIPULATED, THROUGH COUNSEL OF RECORD.

19
20 Dated: July 28, 2017

DONIGER/BURROUGHS

21
22 By: /s/ Trevor W. Barrett /

23 Stephen M. Doniger

24 Scott A. Burroughs

25 Trevor W. Barrett

26 Justin M. Gomes,

Attorneys for Plaintiff,

Unicolors, LLC

1 Dated: July 28, 2017

**WILSON ELSER MOSKOWITZ
EDELMAN & DICKER LLP**

2
3 By: /s/ Nicole A. Aaronson /

4 Ian A. Stewart
5 Gregory K. Lee
6 Nicole A. Aaronson,
7 *Attorneys for Defendant*
8 *Spring Import, Inc.*

9 IT IS SO ORDERED.

10 Dated: August 23, 2017

11
12 /s/

13 Hon. Jacqueline Chooljian
14 United States Magistrate Judge

EXHIBIT A

1
2 I, _____ [print or type full name], of _____
3 _____ [print or type full address], declare under penalty of perjury
4 that I have read in its entirety and understand the Stipulated Modified Protective Order that
5 was issued by the United States District Court for the Central District of California in the
6 case of *Unicolors, Inc. v. Luxury Divas Corporation, et al.* Case No. 2:16-cv-05975-AB-
7 JC. I agree to comply with and to be bound by all the terms of this Stipulated Modified
8 Protective Order and I understand and acknowledge that failure to so comply could expose
9 me to sanctions and punishment in the nature of contempt. I solemnly promise that I will
10 not disclose in any manner any information or item that is subject to this Stipulated
11 Modified Protective Order to any person or entity except in strict compliance with the
12 provisions of this Order.

13 I further agree to submit to the jurisdiction of the United States District Court for the
14 Central District of California for the purpose of enforcing the terms of this Stipulated
15 Modified Protective Order, even if such enforcement proceedings occur after termination of
16 this action.

17 I hereby appoint _____ [print or type full name] of
18 _____ [print or type full address and telephone
19 number] as my California agent for service of process in connection with this action or any
20 proceedings related to enforcement of this Stipulated Protective Order.

21
22 Date: _____

23 City and State where sworn and signed: _____

24 Printed name: _____

25
26 Signature: _____
27
28