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

IMPEX ENTERPRISES LIMITED

 PLAINTIFF,

 v.

SONY PICTURES WORLDWIDE
ACQUISITIONS, INC.; AND DOES 1 TO 10,

 DEFENDANTS.

CASE No: 2:17 CV 1044 SJO (SKx)

Judge: Hon. S. James Otero
Magistrate Judge: Hon. Steve Kim
Complaint Filed: February 8, 2017
Trial Date: February 27, 2018

[Discovery Document: Referred to
Magistrate Judge Steve Kim]

STIPULATED PROTECTIVE ORDER

1 1. A. PURPOSES AND LIMITATIONS

2 Discovery in this action is likely to involve production of confidential, proprietary,
3 or private information for which special protection from public disclosure and from use
4 for any purpose other than prosecuting this litigation may be warranted. Accordingly, the
5 parties hereby stipulate to and petition the Court to enter the following Stipulated
6 Protective Order. The parties acknowledge that this Order does not confer blanket
7 protections on all disclosures or responses to discovery and that the protection it affords
8 from public disclosure and use extends only to the limited information or items that are
9 entitled to confidential treatment under the applicable legal principles. The parties further
10 acknowledge, as set forth in Section 12.3, below, that this Stipulated Protective Order
11 does not entitle them to file confidential information under seal; Civil Local Rule 79 5
12 sets forth the procedures that must be followed and the standards that will be applied
13 when a party seeks permission from the court to file material under seal.

14 B. GOOD CAUSE STATEMENT

15 This action is likely to involve trade secrets, customer and pricing information and
16 other valuable commercial, financial, technical and/or proprietary information for which
17 special protection from public disclosure and from use for any purpose other than
18 prosecution of this action is warranted. Such confidential and proprietary materials and
19 information consist of, among other things, confidential business or financial
20 information, information regarding confidential business practices, or other confidential
21 research, development, or commercial information (including information implicating
22 privacy rights of third parties), information otherwise generally unavailable to the public,
23 or which may be privileged or otherwise protected from disclosure under state or federal
24 statutes, court rules, case decisions, or common law. Accordingly, to expedite the flow of
25 information, to facilitate the prompt resolution of disputes over confidentiality of
26 discovery materials, to adequately protect information the parties are entitled to keep
27 confidential, to ensure that the parties are permitted reasonable necessary uses of such
28 material in preparation for and in the conduct of trial, to address their handling at the end

1 of the litigation, and serve the ends of justice, a protective order for such information is
2 justified in this matter. It is the intent of the parties that information will not be
3 designated as confidential for tactical reasons and that nothing be so designated without a
4 good faith belief that it has been maintained in a confidential, non-public manner, and
5 there is good cause why it should not be part of the public record of this case.

6 2. DEFINITIONS

7 2.1 Action: this pending federal law suit.

8 2.2 Challenging Party: a Party or Non-Party that challenges the designation of
9 information or items under this Order.

10 2.3 “CONFIDENTIAL” Information or Items: information (regardless of how it
11 is generated, stored or maintained) or tangible things that qualify for protection under
12 Federal Rule of Civil Procedure 26(c), and as specified above in the Good Cause
13 Statement.

14 2.4 Counsel: Outside Counsel of Record and House Counsel (as well as their
15 support staff).

16 2.5 Designating Party: a Party or Non-Party that designates information or items
17 that it produces in disclosures or in responses to discovery as “CONFIDENTIAL.”

18 2.6 Disclosure or Discovery Material: all items or information, regardless of the
19 medium or manner in which it is generated, stored, or maintained (including, among
20 other things, testimony, transcripts, and tangible things), that are produced or generated in
21 disclosures or responses to discovery in this matter.

22 2.7 Expert: a person with specialized knowledge or experience in a matter
23 pertinent to the litigation who has been retained by a Party or its counsel to serve as an
24 expert witness or as a consultant in this Action.

25 2.8 House Counsel: attorneys who are employees of a party to this Action.
26 House Counsel does not include Outside Counsel of Record or any other outside counsel.

27 2.9 Non-Party: any natural person, partnership, corporation, association, or other
28 legal entity not named as a Party to this action.

1 2.10 Outside Counsel of Record: attorneys who are not employees of a party to
2 this Action but are retained to represent or advise a party to this Action and have
3 appeared in this Action on behalf of that party or are affiliated with a law firm which has
4 appeared on behalf of that party, and includes support staff.

5 2.11 Party: any party to this Action, including all of its officers, directors,
6 employees, consultants, retained experts, and Outside Counsel of Record (and their
7 support staffs).

8 2.12 Producing Party: a Party or Non-Party that produces Disclosure or
9 Discovery Material in this Action.

10 2.13 Professional Vendors: persons or entities that provide litigation support
11 services (e.g., photocopying, videotaping, translating, preparing exhibits or
12 demonstrations, and organizing, storing, or retrieving data in any form or medium) and
13 their employees and subcontractors.

14 2.14 Protected Material: any Disclosure or Discovery Material that is designated
15 as “CONFIDENTIAL.”

16 2.15 Receiving Party: a Party that receives Disclosure or Discovery Material from
17 a Producing Party.

18 3. SCOPE

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

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

26 4. DURATION

27 Once a case proceeds to trial, all of the information that was designated as
28 confidential or maintained pursuant to this protective order becomes public and will be

1 presumptively available to all members of the public, including the press, unless
2 compelling reasons supported by specific factual findings to proceed otherwise are made
3 to the trial judge in advance of the trial. See *Kamakana v. City and County of Honolulu*,
4 447 F.3d 1172, 1180 81 (9th Cir. 2006) (distinguishing “good cause” showing for sealing
5 documents produced in discovery from “compelling reasons” standard when merits
6 related documents are part of court record). Accordingly, the terms of this protective
7 order do not extend beyond the commencement of the trial.

8 5. DESIGNATING PROTECTED MATERIAL

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

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

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

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

27 Designation in conformity with this Order requires:

- 28 (a) for information in documentary form (e.g., paper or electronic

1 documents, but excluding transcripts of depositions or other pretrial or trial proceedings),
2 that the Producing Party affix at a minimum, the legend “CONFIDENTIAL” (hereinafter
3 “CONFIDENTIAL legend”), to each page that contains protected material. If only a
4 portion or portions of the material on a page qualifies for protection, the Producing Party
5 also must clearly identify the protected portion(s) (e.g., by making appropriate markings
6 in the margins).

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

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

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

26 5.3 Inadvertent Failures to Designate. If timely corrected, an inadvertent failure
27 to designate qualified information or items does not, standing alone, waive the
28 Designating Party’s right to secure protection under this Order for such material. Upon

1 timely correction of a designation, the Receiving Party must make reasonable efforts to
2 assure that the material is treated in accordance with the provisions of this Order.

3 6. CHALLENGING CONFIDENTIALITY DESIGNATIONS

4 6.1 Timing of Challenges. Any Party or Non-Party may challenge a designation
5 of confidentiality at any time that is consistent with the Court’s Scheduling Order.

6 6.2 Meet and Confer. The Challenging Party shall initiate the dispute resolution
7 process under Local Rule 37.1 et seq.

8 6.31 The burden of persuasion in any such challenge proceeding shall be on the
9 Designating Party. Frivolous challenges, and those made for an improper purpose (e.g., to
10 harass or impose unnecessary expenses and burdens on other parties) may expose the
11 Challenging Party to sanctions. Unless the Designating Party has waived or withdrawn
12 the confidentiality designation, all parties shall continue to afford the material in question
13 the level of protection to which it is entitled under the Producing Party’s designation until
14 the Court rules on the challenge.

15 7. ACCESS TO AND USE OF PROTECTED MATERIAL

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

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

27 (a) the Receiving Party’s Outside Counsel of Record in this Action, as well
28 as employees of said Outside Counsel of Record to whom it is reasonably necessary to

1 disclose the information for this Action;

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

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

7 (d) the court and its personnel;

8 (e) court reporters and their staff;

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

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

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

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

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

27 If a Party is served with a subpoena or a court order issued in other litigation that
28 compels disclosure of any information or items designated in this Action as

1 “CONFIDENTIAL,” that Party must:

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

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

8 (c) cooperate with respect to all reasonable procedures sought to be pursued
9 by the Designating Party whose Protected Material may be affected. If the Designating
10 Party timely seeks a protective order, the Party served with the subpoena or court order
11 shall not produce any information designated in this action as “CONFIDENTIAL” before
12 a determination by the court from which the subpoena or order issued, unless the Party
13 has obtained the Designating Party’s permission. The Designating Party shall bear the
14 burden and expense of seeking protection in that court of its confidential material and
15 nothing in these provisions should be construed as authorizing or encouraging a
16 Receiving Party in this Action to disobey a lawful directive from another court.

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

19 (a) The terms of this Order are applicable to information produced by a Non-Party
20 in this Action and designated as “CONFIDENTIAL.” Such information produced by
21 Non-Parties in connection with this litigation is protected by the remedies and relief
22 provided by this Order. Nothing in these provisions should be construed as prohibiting a
23 Non-Party from seeking additional protections.

24 (b) In the event that a Party is required, by a valid discovery request, to produce a
25 Non-Party’s confidential information in its possession, and the Party is subject to an
26 agreement with the Non-Party not to produce the Non-Party’s confidential information,
27 then the Party shall:

28 (1) promptly notify in writing the Requesting Party and the Non-Party that

1 some or all of the information requested is subject to a confidentiality agreement with a
2 Non-Party;

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

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

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

16 10. UNAUTHORIZED DISCLOSURE OF PROTECTED MATERIAL

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

25 11. INADVERTENT PRODUCTION OF PRIVILEGED OR OTHERWISE
26 PROTECTED MATERIAL

27 When a Producing Party gives notice to Receiving Parties that certain inadvertently
28 produced material is subject to a claim of privilege or other protection, the obligations of

1 the Receiving Parties are those set forth in Federal Rule of Civil Procedure 26(b)(5)(B).
2 This provision is not intended to modify whatever procedure may be established in an
3 e-discovery order that provides for production without prior privilege review. Pursuant to
4 Federal Rule of Evidence 502(d) and (e), insofar as the parties reach an agreement on the
5 effect of disclosure of a communication or information covered by the attorney client
6 privilege or work product protection, the parties may incorporate their agreement in the
7 stipulated protective order submitted to the court.

8 12. MISCELLANEOUS

9 12.1 Right to Further Relief. Nothing in this Order abridges the right of any
10 person to seek its modification by the Court in the future.

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

16 12.3 Filing Protected Material. A Party that seeks to file under seal any Protected
17 Material must comply with Civil Local Rule 79 5. Protected Material may only be filed
18 under seal pursuant to a court order authorizing the sealing of the specific Protected
19 Material at issue. If a Party's request to file Protected Material under seal is denied by the
20 court, then the Receiving Party may file the information in the public record unless
21 otherwise instructed by the court.

22 13. FINAL DISPOSITION

23 After the final disposition of this Action, as defined in paragraph 4, within 60 days
24 of a written request by the Designating Party, each Receiving Party must return all
25 Protected Material to the Producing Party or destroy such material. As used in this
26 subdivision, "all Protected Material" includes all copies, abstracts, compilations,
27 summaries, and any other format reproducing or capturing any of the Protected Material.
28 Whether the Protected Material is returned or destroyed, the Receiving Party must submit

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

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

3 IT IS SO STIPULATED, THROUGH COUNSEL OF RECORD

4 Dated: October 20, 2017 FOLEY & LARDNER LLP

5 By: /s/ Tami S. Smason
6 TAMI S. SMASON
7 *Attorneys for Plaintiff*
Impex Enterprises Limited

8 Dated: October 20, 2017 GLASER WEIL FINK HOWARD
9 AVCHEN & SHAPIRO LLP

10 By: /s/ Adam Pines
11 ADAM PINES
12 *Attorneys for Defendant and*
Third Party Plaintiff
13 Sony Pictures Worldwide Acquisitions Inc.

14 Dated: October 20, 2017 COLEMAN & HOROWITT, LLP

15 By: /s/ Darryl J. Horowitz
16 DARRYL J. HOROWITT
Attorneys for Third Party Defendant
17 WILD PICTURES, LLC

18 FOR GOOD CAUSE SHOWN, IT IS SO ORDERED

19 Dated: October 23, 2017



20 Honorable Steve Kim
21 United States Magistrate Judge
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1 EXHIBIT A

2 ACKNOWLEDGMENT AND AGREEMENT TO BE BOUND

3 I, _____ [print or type full name], of
4 _____ [print or type full address], declare under penalty of perjury that I
5 have read in its entirety and understand the Stipulated Protective Order that was issued by
6 the United States District Court for the Central District of California on [date] in the case
7 of *Impex Enterprises Limited v. Sony Pictures Worldwide Acquisitions, Inc., et al.*, Case
8 No. 2:17 CV 1044 SJO (SKx). I agree to comply with and to be bound by all the terms of
9 this Stipulated Protective Order and I understand and acknowledge that failure to so
10 comply could expose me to sanctions and punishment in the nature of contempt. I
11 solemnly promise that I will not disclose in any manner any information or item that is
12 subject to this Stipulated Protective Order to any person or entity except in strict
13 compliance with the provisions of this Order. I further agree to submit to the jurisdiction
14 of the United States District Court for the Central District of California for the purpose of
15 enforcing the terms of this Stipulated Protective Order, even if such enforcement
16 proceedings occur after termination of this action. I hereby appoint
17 _____ [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
20 any proceedings related to enforcement of this Stipulated Protective Order.

21 Date: _____

22 City and State where sworn and signed: _____

23
24 Printed name: _____

25
26 Signature: _____.