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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

SERIOUSLY AWESOME STUFF, LLC,

Plaintiff,

v.

TAYLOR JAMES, LLC dba
SUPERGOOP!,

Defendant.

Case No. 2:21-cv-07399 SB (JCx)

PROTECTIVE ORDER

DISCOVERY MATTER

Hon. Jacqueline Chooljian

TAYLOR JAMES, LLC dba
SUPERGOOP!,

Counterclaimant,

v.

SERIOUSLY AWESOME STUFF, LLC,

Counter-Defendant.

1 1. A. PURPOSES AND LIMITATIONS

2 As the parties have represented that discovery in this action is likely to
3 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, this Court enters the following
6 Protective Order. This Order does not confer blanket protections on all disclosures
7 or responses to discovery. The protection it affords from public disclosure and use
8 extends only to the limited information or items that are entitled to confidential
9 treatment under the applicable legal principles. Further, as set forth in Section
10 12.3, below, this Protective Order does not entitle the parties to file confidential
11 information under seal. Rather, when the parties seek permission from the court to
12 file material under seal, the parties must comply with Civil Local Rule 79-5 and
13 with any pertinent orders of the assigned District Judge and Magistrate Judge.

14 B. GOOD CAUSE STATEMENT

15 In light of the nature of the claims and allegations in this case and the
16 parties' representations that discovery in this case will involve the production of
17 confidential records, and in order to expedite the flow of information, to facilitate
18 the prompt resolution of disputes over confidentiality of discovery materials, to
19 adequately protect information the parties are entitled to keep confidential, to
20 ensure that the parties are permitted reasonable necessary uses of such material in
21 connection with this action, to address their handling of such material at the end of
22 the litigation, and to serve the ends of justice, a protective order for such
23 information is justified in this matter. The parties shall not designate any
24 information/documents as confidential without a good faith belief that such
25 information/documents have been maintained in a confidential, non-public manner,
26 and that there is good cause or a compelling reason why it should not be part of the
27 public record of this case.

1 2. DEFINITIONS

2 2.1 Action: The instant action: *Seriously Awesome Stuff, LLC v. Taylor*
3 *James, LLC dba Supergoop!*; USDC, CD Case No. 2:21-cv-07399 SB (JCx).

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

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

10 2.4 “HIGHLY CONFIDENTIAL -- ATTORNEYS’ EYES ONLY”
11 Information or Items: extremely sensitive “CONFIDENTIAL” Information or
12 Items, the disclosure of which to another Party or Non-Party would create a
13 substantial risk of serious harm that could not be avoided by less restrictive means.

14 2.5 Counsel: Outside Counsel of Record and House Counsel (as well as
15 their support staff).

16 2.6 Designating Party: a Party or Non-Party that designates information
17 or items that it produces in disclosures or in responses to discovery as
18 “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL -- ATTORNEYS’ EYES
19 ONLY.”

20 2.7 Disclosure or Discovery Material: all items or information, regardless
21 of the medium or manner in which it is generated, stored, or maintained (including,
22 among other things, testimony, transcripts, and tangible things), that are produced
23 or generated in disclosures or responses to discovery in this matter.

24 2.8 Expert: a person with specialized knowledge or experience in a
25 matter pertinent to the litigation who has been retained by a Party or its counsel to
26 serve as an expert witness or as a consultant in this Action.

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1 2.9 House Counsel: attorneys who are employees of a party to this
2 Action. House Counsel does not include Outside Counsel of Record or any other
3 outside counsel.

4 2.10 Non-Party: any natural person, partnership, corporation, association,
5 or other legal entity not named as a Party to this action.

6 2.11 Outside Counsel of Record: attorneys who are not employees of a
7 party to this Action but are retained to represent or advise a party to this Action
8 and have appeared in this Action on behalf of that party or are affiliated with a law
9 firm which has appeared on behalf of that party, and includes support staff.

10 2.12 Party: any party to this Action, including all of its officers, directors,
11 employees, consultants, retained experts, and Outside Counsel of Record (and their
12 support staffs).

13 2.13 Producing Party: a Party or Non-Party that produces Disclosure or
14 Discovery Material in this Action.

15 2.14 Professional Vendors: persons or entities that provide litigation
16 support services (e.g., photocopying, videotaping, translating, preparing exhibits or
17 demonstrations, and organizing, storing, or retrieving data in any form or medium)
18 and their employees and subcontractors.

19 2.15 Protected Material: any Disclosure or Discovery Material that is
20 designated as “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL --
21 ATTORNEYS’ EYES ONLY.”

22 2.16 Receiving Party: a Party that receives Disclosure or Discovery
23 Material from a Producing Party.

24 3. SCOPE

25 The protections conferred by this Order cover not only Protected Material
26 (as defined above), but also (1) any information copied or extracted from Protected
27 Material; (2) all copies, excerpts, summaries, or compilations of Protected
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1 Material; and (3) any deposition testimony, conversations, or presentations by
2 Parties or their Counsel that might reveal Protected Material, other than during a
3 court hearing or at trial.

4 Any use of Protected Material during a court hearing or at trial shall be
5 governed by the orders of the presiding judge. This Order does not govern the use
6 of Protected Material during a court hearing or at trial.

7 4. DURATION

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

16 5. DESIGNATING PROTECTED MATERIAL

17 5.1 Exercise of Restraint and Care in Designating Material for Protection.

18 Each Party or Non-Party that designates information or items for protection under
19 this Order must take care to limit any such designation to specific material that
20 qualifies under the appropriate standards. The Designating Party must designate for
21 protection only those parts of material, documents, items, or oral or written
22 communications that qualify so that other portions of the material, documents,
23 items, or communications for which protection is not warranted are not swept
24 unjustifiably within the ambit of this Order.

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

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

6 5.2 Manner and Timing of Designations. Except as otherwise provided in
7 this Order (see, e.g., second paragraph of Section 5.2(a) below), or as otherwise
8 stipulated or ordered, Disclosure or Discovery Material that qualifies for protection
9 under this Order must be clearly so designated before the material is disclosed or
10 produced.

11 Designation in conformity with this Order requires:

12 (a) for information in documentary form (e.g., paper or electronic
13 documents, but excluding transcripts of depositions), that the Producing Party affix
14 at a minimum, the legend "CONFIDENTIAL" or "HIGHLY CONFIDENTIAL --
15 ATTORNEYS' EYES ONLY" to each page that contains protected material. If
16 only a portion or portions of the material on a page qualifies for protection, the
17 Producing Party also must clearly identify the protected portion(s) (e.g., by making
18 appropriate markings in the margins).

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

5 (b) for testimony given in depositions that the Designating Party
6 identifies on the record, before the close of the deposition as protected testimony or
7 which is designated by the Party who defended the deposition and/or who
8 otherwise controls the confidentiality of the testimony within ten (10) days
9 following the deposition. During the pendency of the 10-day period after any
10 deposition, the transcripts and recordings thereof shall be treated as Highly
11 Confidential – Attorneys’ Eyes Only.

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

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

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1 Receiving Party may disclose any information or item designated

2 “CONFIDENTIAL” only to:

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

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

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

11 (d) the court and its personnel;

12 (e) private court reporters and their staff to whom disclosure is
13 reasonably necessary for this Action and who have signed the “Acknowledgment
14 and Agreement to Be Bound” (Exhibit A);

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

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

20 (h) during their depositions, witnesses, and attorneys for witnesses, in
21 the Action to whom disclosure is reasonably necessary provided: (1) the deposing
22 party requests that the witness sign the “Acknowledgment and Agreement to Be
23 Bound” (Exhibit A); and (2) they will not be permitted to keep any confidential
24 information unless they sign the “Acknowledgment and Agreement to Be Bound”
25 (Exhibit A), unless otherwise agreed by the Designating Party or ordered by the
26 court. Pages of transcribed deposition testimony or exhibits to depositions that

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1 reveal Protected Material may be separately bound by the court reporter and may
2 not be disclosed to anyone except as permitted under this Protective Order; and

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

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

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

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

15 (c) the court and its personnel;

16 (d) private court reporters and their staff to whom disclosure is reasonably
17 necessary for this Action and who have signed the “Acknowledgment and
18 Agreement to Be Bound” (Exhibit A);

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

22 (f) the author or recipient of a document containing the information or a
23 custodian or other person who otherwise possessed or knew the information; and

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

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

3 (a) The terms of this Order are applicable to information produced by a
4 Non-Party in this Action and designated as “CONFIDENTIAL” or “HIGHLY
5 CONFIDENTIAL -- ATTORNEYS’ EYES ONLY.” Such information produced
6 by Non-Parties in connection with this litigation is protected by the remedies and
7 relief provided by this Order. Nothing in these provisions should be construed as
8 prohibiting a Non-Party from seeking additional protections.

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

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

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

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

21 (c) If a Non-Party represented by counsel fails to commence the process
22 called for by Local Rules 45-1 and 37-1, et seq. within 14 days of receiving the
23 notice and accompanying information or fails contemporaneously to notify the
24 Receiving Party that it has done so, the Receiving Party may produce the Non-
25 Party’s confidential information responsive to the discovery request. If an
26 unrepresented Non-Party fails to seek a protective order from this court within 14
27 days of receiving the notice and accompanying information, the Receiving Party
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1 may produce the Non-Party's confidential information responsive to the discovery
2 request. If the Non-Party timely seeks a protective order, the Receiving Party shall
3 not produce any information in its possession or control that is subject to the
4 confidentiality agreement with the Non-Party before a determination by the court
5 unless otherwise required by the law or court order. Absent a court order to the
6 contrary, the Non-Party shall bear the burden and expense of seeking protection in
7 this court of its Protected Material.

8 10. UNAUTHORIZED DISCLOSURE OF PROTECTED MATERIAL

9 If a Receiving Party learns that, by inadvertence or otherwise, it has
10 disclosed Protected Material to any person or in any circumstance not authorized
11 under this Protective Order, the Receiving Party must immediately (a) notify in
12 writing the Designating Party of the unauthorized disclosures, (b) use its best
13 efforts to retrieve all unauthorized copies of the Protected Material, (c) inform the
14 person or persons to whom unauthorized disclosures were made of all the terms of
15 this Order, and (d) request such person or persons to execute the
16 "Acknowledgment and Agreement to Be Bound" (Exhibit A).

17 11. INADVERTENT PRODUCTION OF PRIVILEGED OR
18 OTHERWISE PROTECTED MATERIAL

19 When a Producing Party gives notice to Receiving Parties that certain
20 inadvertently produced material is subject to a claim of privilege or other
21 protection, the obligations of the Receiving Parties are those set forth in Federal
22 Rule of Civil Procedure 26(b)(5)(B). If a Producing Party makes a claim of
23 inadvertent disclosure, the Receiving Party shall, within five (5) business days,
24 return or destroy all copies of the inadvertently disclosed information, and provide
25 a certification of counsel that all such information has been returned or destroyed.
26 The Disclosing Party retains the burden of establishing the privileged or protected
27 nature of the inadvertently disclosed information.

1 This provision is not intended to modify whatever procedure may be
2 established in an e-discovery order that provides for production without prior
3 privilege review.

4 Pursuant to Federal Rule of Evidence 502(d) and (e), the production or
5 disclosure of any privileged or otherwise protected documents and accompanying
6 metadata, shall not result in any waiver, including subject matter waiver, of any
7 kind (including, without limitation, the attorney-client privilege, the work-product
8 doctrine, the joint defense privilege, or any other applicable privilege), in this or
9 any other state or federal proceeding regardless of the circumstances of disclosure.
10 This Paragraph shall be interpreted to provide the maximum protection allowed by
11 Federal Rule of Evidence 502(d).

12 12. MISCELLANEOUS

13 12.1 Right to Further Relief. Nothing in this Order abridges the right of
14 any person to seek its modification by the Court in the future.

15 12.2 Right to Assert Other Objections. No Party waives any right it
16 otherwise would have to object to disclosing or producing any information or item
17 on any ground not addressed in this Protective Order. Similarly, no Party waives
18 any right to object on any ground to use in evidence of any of the material covered
19 by this Protective Order.

20 12.3 Filing Protected Material. A Party that seeks to file under seal any
21 Protected Material must comply with Civil Local Rule 79-5 and with any pertinent
22 orders of the assigned District Judge and Magistrate Judge. Protected Material
23 may only be filed under seal pursuant to a court order authorizing the sealing of the
24 specific Protected Material at issue. If a Party's request to file Protected Material
25 under seal is denied by the court, then the Receiving Party may file the information
26 in the public record unless otherwise instructed by the court.

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1 EXHIBIT A

2 ACKNOWLEDGMENT AND AGREEMENT TO BE BOUND

3
4 I, _____ [print or type full name], of
5 _____ [print or type full address], declare under penalty of perjury
6 that I have read in its entirety and understand the Protective Order that was issued
7 by the United States District Court for the Central District of California on
8 November 19, 2021 in the case of *Seriously Awesome Stuff, LLC v. Taylor James,*
9 *LLC dba Supergoop!;* USDC, CD Case No. 2:21-cv-07399 SB (JCx). I agree to
10 comply with and to be bound by all the terms of this Protective Order and I
11 understand and acknowledge that failure to so comply could expose me to sanctions
12 and punishment in the nature of contempt. I solemnly promise that I will not disclose
13 in any manner any information or item that is subject to this Protective Order to any
14 person or entity except in strict compliance with the provisions of this Order.

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

22 Date: _____

23 City and State where sworn and signed: _____

24 Printed name: _____

25 Signature: _____