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 19 CONVERZE MEDIA GROUP, LLC, CHRIS  
 20 PICOU, JOHN HERNANDEZ, and KENNETH  
 21 PARKERSON

22 UNITED STATES DISTRICT COURT  
 23 CENTRAL DISTRICT OF CALIFORNIA

24 LEXXIOM, INC., a Nevada  
 25 Corporation,

26 Plaintiff,

27 v.

28 CONVERZE INTERACTIVE, INC, a  
 California Limited Liability Company,  
 LIDO LABS, LLC, a California  
 Limited Liability Company;  
 CONVERZE MEDIA GROUP, LLC a  
 California Limited Liability Company;  
 Chris Picou, an individual, John  
 Hernandez, an individual and Kenneth  
 Parkerson, an individual and Does 1-5.

Defendants.

CASE NO. 8:16-CV-02179-JVS-JCG

**STIPULATED PROTECTIVE  
 ORDER**

**JUDGE: HON. JAMES V. SELNA**

1           1. PURPOSE AND LIMITS OF THIS ORDER

2           Discovery in this action is likely to involve confidential, proprietary, or  
3 private information requiring special protection from public disclosure and from  
4 use for any purpose other than this litigation. Thus, the Court enters this Protective  
5 Order. This Order does not confer blanket protections of all disclosures or  
6 responses to discovery, and the protection it gives from public disclosure and use  
7 extends only to the specific material entitled to confidential treatment under the  
8 applicable legal principals. This Order does not automatically authorize the filing  
9 under seal of material designated under this Order. Instead, the parties must  
10 comply with L.R. 79-5.1 if they seek to file anything under seal. This Order does  
11 not govern the use at trial of material designated under this Order.

12           2. DESIGNATING PROTECTED MATERIAL

13           2.1 Over-Designation Prohibited. Any party or non-party who  
14 designates information or items for protection under this Order as  
15 "CONFIDENTIAL," "HIGHLY CONFIDENTIAL - ATTORNEY EYES ONLY,"  
16 or "HIGHLY CONFIDENTIAL- SOURCE CODE" (a "designator") must only  
17 designate specific material that qualifies under the appropriate standards. To the  
18 extent practicable, only those parts of documents, items, or oral or written  
19 communications that require protection shall be designated. Designations with a  
20 higher confidentiality level when a lower level would suffice are prohibited. Mass,  
21 indiscriminate, or routinized designations are prohibited. Unjustified designations  
22 expose the designator to sanctions, including the Court's striking all confidentiality  
23 designations made by that designator. Designation under this Order is allowed only  
24 if the designation is necessary to protect material that, if disclosed to persons not  
25 authorized to view it, would cause competitive or other recognized harm. Material  
26 may not be designated if it has been made public, or if designation is otherwise  
27 unnecessary to protect a secrecy interest. If a designator learns that information or  
28

1 items that it designated for protection do not qualify for protection at all or do not  
2 qualify for the level of protection initially asserted, that designator must promptly  
3 notify all parties that it is withdrawing the mistaken designation.

4           2.2 Manner and Timing of Designations. Designation under this  
5 Order requires the designator to affix the applicable legend ("CONFIDENTIAL,"  
6 "HIGHLY CONFIDENTIAL - ATTORNEY EYES ONLY," or "HIGHLY  
7 CONFIDENTIAL - SOURCE CODE") to each page that contains protected  
8 material. For testimony given in deposition or other proceeding, the designator shall  
9 specify all protected testimony and the level of protection being asserted. It may  
10 make that designation during the deposition or proceeding, or may invoke, on the  
11 record or by written notice to all parties on or before the next business day, a right  
12 to have up to 21 days from the deposition or proceeding to make its designation.

13           2.2.1 A party or non-party that makes original documents or materials  
14 available for inspection need not designate them for protection until after the  
15 inspecting party has identified which material it would like copied and produced.  
16 During the inspection and before the designation, all material shall be treated as  
17 HIGHLY CONFIDENTIAL - ATTORNEY EYES ONLY. After the inspecting  
18 party has identified the documents it wants copied and produced, the producing  
19 party must designate the documents, or portions thereof, that qualify for protection  
20 under this Order.

21           2.2.2 Parties shall give advance notice if they expect a deposition or other  
22 proceeding to include designated material so that the other parties can ensure that  
23 only authorized individuals are present at those proceedings when such material is  
24 disclosed or used. The use of a document as an exhibit at a deposition shall not in  
25 any way affect its designation. Transcripts containing designated material shall  
26 have a legend on the title page noting the presence of designated material, and the  
27 title page shall be followed by a list of all pages (including line numbers as  
28 appropriate) that have been designated, and the level of protection being asserted.

1 The designator shall inform the court reporter of these requirements. Any transcript  
2 that is prepared before the expiration of the 21-day period for designation shall be  
3 treated during that period as if it had been designated HIGHLY CONFIDENTIAL -  
4 ATTORNEY EYES ONLY unless otherwise agreed. After the expiration of the 21-  
5 day period, the transcript shall be treated only as actually designated.

6 2.3 Inadvertent Failures to Designate. An inadvertent failure to  
7 designate does not, standing alone, waive protection under this Order. Upon timely  
8 assertion or correction of a designation, all recipients must make reasonable efforts  
9 to ensure that the material is treated according to this Order.

10 3. CHALLENGING CONFIDENTIALITY DESIGNATIONS

11 All challenges to confidentiality designations shall proceed under L.R. 37-1  
12 through L.R.37-4.

13 4. ACCESS TO DESIGNATED MATERIAL

14 4.1 Basic Principles. A receiving party may use designated material  
15 only for this litigation. Designated material may be disclosed only to the categories  
16 of persons and under the conditions described in this Order.

17 4.2 Disclosure of CONFIDENTIAL Material Without Further  
18 Approval. Unless otherwise ordered by the Court or permitted in writing by the  
19 designator, a receiving party may disclose any material designated  
20 CONFIDENTIAL only to:

21 4.2.1 The receiving party's outside counsel of record in this action and  
22 employees of outside counsel of record to whom disclosure is reasonably necessary;

23 4.2.2 The officers, directors, and employees of the receiving party to whom  
24 disclosure is reasonably necessary, and who have signed the Agreement to Be  
25 Bound (Exhibit A);

26 4.2.3 Experts retained by the receiving party's outside counsel of record to  
27 whom disclosure is reasonably necessary, and who have signed the Agreement to  
28 Be Bound (Exhibit A);

1 4.2.4 The Court and its personnel;

2 4.2.5 Outside court reporters and their staff, professional jury or trial  
3 consultants, and professional vendors to whom disclosure is reasonably necessary,  
4 and who have signed the Agreement to Be Bound (Exhibit A);

5 4.2.6 During their depositions, witnesses in the action to whom disclosure is  
6 reasonably necessary and who have signed the Agreement to Be Bound (Exhibit  
7 A); and

8 4.2.7 The author or recipient of a document containing the material, or a  
9 custodian or other person who otherwise possessed or knew the information.

10 4.3 Disclosure of HIGHLY CONFIDENTIAL - ATTORNEY  
11 EYES ONLY and HIGHLY CONFIDENTIAL - SOURCE CODE Material without  
12 Further Approval. Unless permitted in writing by the designator, a receiving party  
13 may disclose material designated HIGHLY CONFIDENTIAL - ATTORNEY  
14 EYES ONLY or HIGHLY CONFIDENTIAL - SOURCE CODE without further  
15 approval only to:

16 4.3.1 The receiving party's outside counsel of record in this action and  
17 employees of outside counsel of record to whom it is reasonably necessary to  
18 disclose the information;

19 4.3.2 The Court and its personnel;

20 4.3.3 Outside court reporters and their staff, professional jury or trial  
21 consultants, and professional vendors to whom disclosure is reasonably necessary,  
22 and who have signed the Agreement to Be Bound (Exhibit A); and

23 4.3.4 The author or recipient of a document containing the material, or a  
24 custodian or other person who otherwise possessed or knew the information.

25 4.4 Procedures for Approving or Objecting to Disclosure of  
26 HIGHLY CONFIDENTIAL - ATTORNEY EYES ONLY or HIGHLY  
27 CONFIDENTIAL- SOURCE CODE Material to In-House Counsel or Experts.  
28 Unless agreed to in writing by the designator:

1           4.4.1 A party seeking to disclose to in-house counsel any material designated  
2 **HIGHLY CONFIDENTIAL - ATTORNEY EYES ONLY** must first make a written  
3 request to the designator providing the full name of the in-house counsel, the city  
4 and state of such counsel's residence, and such counsel's current and reasonably  
5 foreseeable future primary job duties and responsibilities in sufficient detail to  
6 determine present or potential involvement in any competitive decision-making. In-  
7 house counsel are not authorized to receive material designated **HIGHLY**  
8 **CONFIDENTIAL - SOURCE CODE**.

9           4.4.2 A party seeking to disclose to an expert retained by outside counsel of  
10 record any information or item that has been designated **HIGHLY**  
11 **CONFIDENTIAL - ATTORNEY EYES ONLY** or **HIGHLY CONFIDENTIAL-**  
12 **SOURCE CODE** must first make a written request to the designator that (1)  
13 identifies the general categories of **HIGHLY CONFIDENTIAL - ATTORNEY**  
14 **EYES ONLY** or **HIGHLY CONFIDENTIAL - SOURCE CODE** information that  
15 the receiving party seeks permission to disclose to the expert, (2) sets forth the full  
16 name of the expert and the city and state of his or her primary residence, (3)  
17 attaches a copy of the expert's current resume, (4) identifies the expert's current  
18 employer(s), (5) identifies each person or entity from whom the expert has received  
19 compensation or funding for work in his or her areas of expertise (including in  
20 connection with litigation) in the past five years, and (6) identifies (by name and  
21 number of the case, filing date, and location of court) any litigation where the  
22 expert has offered expert testimony, including by declaration, report, or testimony  
23 at deposition or trial, in the past five years. If the expert believes any of this  
24 information at (4) - (6) is subject to a confidentiality obligation to a third party, then  
25 the expert should provide whatever information the expert believes can be disclosed  
26 without violating any confidentiality agreements, and the party seeking to disclose  
27 the information to the expert shall be available to meet and confer with the  
28 designator regarding any such confidentiality obligations.

1           4.4.3 A party that makes a request and provides the information specified in  
2 paragraphs 4.4.1 or 4.4.2 may disclose the designated material to the identified in-  
3 house counsel or expert unless, within seven days of delivering the request, the  
4 party receives a written objection from the designator providing detailed grounds  
5 for the objection.

6           4.4.4 All challenges to objections from the designator shall proceed under  
7 L.R. 37-1 through L.R. 37-4.

8           5.     SOURCE CODE

9           5.1     Designation of Source Code. If production of source code is  
10 necessary, a party may designate it as HIGHLY CONFIDENTIAL - SOURCE  
11 CODE if it is, or includes, confidential, proprietary, or trade secret source code.

12           5.2     Location and Supervision of Inspection. Any HIGHLY  
13 CONFIDENTIAL - SOURCE CODE produced in discovery shall be made  
14 available for inspection, in a format allowing it to be reasonably reviewed and  
15 searched, during normal business hours or at other mutually agreeable times, at an  
16 office of the designating party's counsel or another mutually agreeable location. The  
17 source code shall be made available for inspection on a secured computer in a  
18 secured room, and the inspecting party shall not copy, remove, or otherwise transfer  
19 any portion of the source code onto any recordable media or recordable device. The  
20 designator may visually monitor the activities of the inspecting party's  
21 representatives during any source code review, but only to ensure that there is no  
22 unauthorized recording, copying, or transmission of the source code.

23           5.3     Paper Copies of Source Code Excerpts. The inspecting party  
24 may request paper copies of limited portions of source code that are reasonably  
25 necessary for the preparation of court filings, pleadings, expert reports, other  
26 papers, or for deposition or trial. The designator shall provide all such source code  
27 in paper form, including Bates numbers and the label "HIGHLY CONFIDENTIAL  
28 - SOURCE CODE."

1           5.4 Access Record. The inspecting party shall maintain a record of  
2 any individual who has inspected any portion of the source code in electronic or  
3 paper form, and shall maintain all paper copies of any printed portions of the source  
4 code in a secured, locked area.

5           The inspecting party shall not convert any of the information contained in the  
6 paper copies into any electronic format other than for the preparation of a pleading,  
7 exhibit, expert report, discovery document, deposition transcript, or other Court  
8 document. Any paper copies used during a deposition shall be retrieved at the end  
9 of each day and must not be left with a court reporter or any other unauthorized  
10 individual.

11           6.     PROTECTED MATERIAL SUBPOENAED OR ORDERED  
12 PRODUCED IN OTHER LITIGATION

13           6.1 Subpoenas and Court Orders. This Order in no way excuses  
14 non-compliance with a lawful subpoena or court order. The purpose of the duties  
15 described in this section is to alert the interested parties to the existence of this  
16 Order and to give the designator an opportunity to protect its confidentiality  
17 interests in the court where the subpoena or order issued.

18           6.2 Notification Requirement. If a party is served with a subpoena  
19 or a court order issued in other litigation that compels disclosure of any information  
20 or items designated in this action as CONFIDENTIAL, HIGHLY  
21 CONFIDENTIAL - ATTORNEY EYES ONLY, or HIGHLY CONFIDENTIAL -  
22 SOURCE CODE, that party must:

23           6.2.1 Promptly notify the designator in writing. Such notification shall  
24 include a copy of the subpoena or court order;

25           6.2.2 Promptly notify in writing the party who caused the subpoena or order  
26 to issue in the other litigation that some or all of the material covered by the  
27 subpoena or order is subject to this Order. Such notification shall include a copy of  
28 this Order; and





1           9.     FILING UNDER SEAL

2           Without written permission from the designator or a Court Order, a party  
3 may not file in the public record in this action any designated material. A party  
4 seeking to file under seal any designated material must comply with L.R. 79-5.1.  
5 Filings may be made under seal only pursuant to a court order authorizing the  
6 sealing of the specific material at issue. The fact that a document has been  
7 designated under this Order is insufficient to justify filing under seal. Instead,  
8 parties must explain the basis for confidentiality of each document sought to be  
9 filed under seal. Because a party other than the designator will often be seeking to  
10 file designated material, cooperation between the parties in preparing, and in  
11 reducing the number and extent of, requests for under seal filing is essential. If a  
12 receiving party's request to file designated material under seal pursuant to L.R. 79-  
13 5.1 is denied by the Court, then the receiving party may file the material in the  
14 public record unless (1) the designator seeks reconsideration within four days of the  
15 denial, or (2) as otherwise instructed by the Court.

16           10.    FINAL DISPOSITION

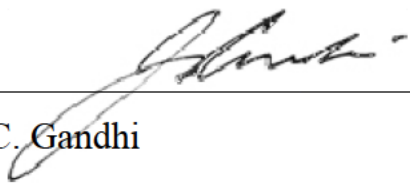
17           Within 60 days after the final disposition of this action, each party shall  
18 return all designated material to the designator or destroy such material, including  
19 all copies, abstracts, compilations, summaries, and any other format reproducing or  
20 capturing any designated material. The receiving party must submit a written  
21 certification to the designator by the 60- day deadline that (1) identifies (by  
22 category, where appropriate) all the designated material that was returned or  
23 destroyed, and (2) affirms that the receiving party has not retained any copies,  
24 abstracts, compilations, summaries, or any other format reproducing or capturing  
25 any of the designated material. This provision shall not prevent counsel from  
26 retaining an archival copy of all pleadings, motion papers, trial, deposition, and  
27 hearing transcripts, legal memoranda, correspondence, deposition and trial exhibits,  
28 expert reports, attorney work product, and consultant and expert work product, even

1 if such materials contain designated material. Any such archival copies remain  
2 subject to this Order.

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IT IS SO ORDERED.

DATED: April 25, 2017

  
\_\_\_\_\_  
Jay C. Gandhi  
United States Magistrate Judge

Respectfully submitted,

By: /s/ David B. Abel, /s/Gregg Zucker  
Gregg Zucker  
David B. Abel  
Attorneys for Plaintiff  
Lexxiom, Inc.

By: /s/ Ben T. Lila  
Ben Lila  
Attorneys for Defendants  
Converze Interactive, Inc., Lido Labs, LLC,  
Converze Media Group, LLC, Chris Picou,  
John Hernandez, and Kenneth Parkerson

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EXHIBIT A  
AGREEMENT TO BE BOUND

I, \_\_\_\_\_, of \_\_\_\_\_  
\_\_\_\_\_ [print or type full address], declare under penalty of perjury  
that I have read in its entirety and understand the Protective Order of the  
United States District Court for the Central District of California in the case  
of *Lexiom, Inc. v. Converze Interactive, Inc., Lido Labs, LLC, Converze  
Media Group, LLC, Chris Picou, Kenneth Parkerson, Keith Hernandez*, civil  
action 8:16-CV-02179-JVS-JCG. I agree to comply with and to be bound by  
all the terms of the Protective Order, and I understand and acknowledge that  
failure to so comply could expose me to  
sanctions and punishment for contempt. I solemnly promise that I will not  
disclose in any manner any information or item that is subject to this  
Protective Order to any person or entity except in strict compliance with this  
Order.

I further agree to submit to the jurisdiction of the United States District  
Court for the Central District of California for the purpose of enforcing this  
Order, even if such enforcement proceedings occur after termination of this  
action.

Date: \_\_\_\_\_  
City and State where sworn and signed: \_\_\_\_\_

Printed name: \_\_\_\_\_

Signature: \_\_\_\_\_