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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

LITTLE ORBIT LLC, a California Limited Liability Company,) Case No.: 8:20-cv-00089-DOC-JDE

Plaintiff,

vs.

DESCENDENT STUDIOS INC., a Texas corporation, and ERIC PETERSON, an individual,

Defendants.

DESCENDENT STUDIOS INC., a Texas corporation,

Counterclaimant,

vs.

LITTLE ORBIT LLC, a California Limited Liability Company,

Counter Defendant.

) Judge: Hon. David O. Carter

STIPULATED PROTECTIVE ORDER

Pursuant to the Parties' Stipulation (Dkt. 44) and for good cause shown therein, the Court finds and orders as follows.

1 **I. PURPOSES AND LIMITATIONS**

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

13 **II. GOOD CAUSE STATEMENT**

14 This action is likely to involve disclosure of trade secrets, customer and pricing lists and
15 other valuable research, development, commercial, financial, technical and/or proprietary
16 information for which special protection from public disclosure and from use for any purpose
17 other than prosecution of this action is warranted. Such confidential and proprietary materials and
18 information consist of, among other things, confidential business or financial information,
19 information regarding confidential business practices, or other confidential research,
20 development, or commercial information (including information implicating privacy rights of
21 third parties), information otherwise generally unavailable to the public, or which may be
22 privileged or otherwise protected from disclosure under state or federal statutes, court rules, case
23 decisions, or common law. Accordingly, to expedite the flow of information, to facilitate the
24 prompt resolution of disputes over confidentiality of discovery materials, to adequately protect
25 information the parties are entitled to keep confidential, to ensure that the parties are permitted
26 reasonable necessary uses of such material in preparation for and in the conduct of trial, to address
27 their handling at the end of the litigation, and serve the ends of justice, a protective order for such
28 information is justified in this matter. It is the intent of the parties that information will not be

1 designated as confidential for tactical reasons and that nothing be so designated without a good
2 faith belief that it has been maintained in a confidential, non-public manner, and there is good
3 cause why it should not be part of the public record of this case.

4 **III. DEFINITIONS**

5 A. Action: This pending federal law suit.

6 B. Challenging Party: A Party or Non-Party that challenges the designation of
7 information or items under this Order.

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

11 D. Counsel: Outside Counsel of Record and House Counsel (as well as their support
12 staff).

13 E. Designating Party: A Party or Non-Party that designates information or items that
14 it produces in disclosures or in responses to discovery as “CONFIDENTIAL.”

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

19 G. Expert: A person with specialized knowledge or experience in a matter pertinent to
20 the litigation who has been retained by a Party or its counsel to serve as an expert witness or as a
21 consultant in this Action.

22 H. 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 I. Non-Party: Any natural person, partnership, corporation, association, or other legal
25 entity not named as a Party to this action.

26 J. 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 in this
28

1 Action on behalf of that party or are affiliated with a law firm which has appeared on behalf of
2 that party, and includes support staff.

3 K. 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 staffs).

5 L. Producing Party: A Party or Non-Party that produces Disclosure or Discovery
6 Material in this Action.

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

11 N. Protected Material: Any Disclosure or Discovery Material that is designated as
12 “CONFIDENTIAL.”

13 O. Receiving Party: A Party that receives Disclosure or Discovery Material from a
14 Producing Party.

15 **IV. SCOPE**

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

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

23 **V. DURATION**

24 Even after final disposition of this litigation, the confidentiality obligations imposed by this
25 Order shall remain in effect until a Designating Party agrees otherwise in writing or a court order
26 otherwise directs. Final disposition shall be deemed to be the later of (1) dismissal of all claims
27 and defenses in this Action, with or without prejudice; and (2) final judgment herein after the
28 completion and exhaustion of all appeals, rehearings, remands, trials, or reviews of this Action,

1 including the time limits for filing any motions or applications for extension of time pursuant to
2 applicable law.

3 **VI. DESIGNATING PROTECTED MATERIAL**

4 **A. Exercise of Restraint and Care in Designating Material for Protection**

5 1. Each Party or Non-Party that designates information or items for protection under
6 this Order must take care to limit any such designation to specific material that qualifies under the
7 appropriate standards. The Designating Party must designate for protection only those parts of
8 material, documents, items, or oral or written communications that qualify so that other portions
9 of the material, documents, items, or communications for which protection is not warranted are
10 not swept unjustifiably within the ambit of this Order.

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

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

18 **B. Manner and Timing of Designations**

19 1. Except as otherwise provided in this Order (*see, e.g.*, Section B(2)(b) below), or as
20 otherwise stipulated or ordered, Disclosure or Discovery Material that qualifies for protection
21 under this Order must be clearly so designated before the material is disclosed or produced.

22 2. Designation in conformity with this Order requires the following:

23 a. For information in documentary form (e.g., paper or electronic documents, but
24 excluding transcripts of depositions or other pretrial or trial proceedings), that the Producing Party
25 affix at a minimum, the legend "CONFIDENTIAL" (hereinafter "CONFIDENTIAL legend"), to
26 each page that contains protected material. If only a portion or portions of the material on a page
27 qualifies for protection, the Producing Party also must clearly identify the protected portion(s)
28 (e.g., by making appropriate markings in the margins).

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

11 c. For testimony given in depositions, that the Designating Party may identify the
12 Disclosure or Discovery Material on the record, before the close of the deposition all protected
13 testimony, or within thirty (30) days of receiving the transcript.

14 d. For information produced in form other than document and for any other tangible
15 items, that the Producing Party affix in a prominent place on the exterior of the container or
16 containers in which the information is stored the legend “CONFIDENTIAL.” If only a portion or
17 portions of the information warrants protection, the Producing Party, to the extent practicable,
18 shall identify the protected portion(s).

19 **C. Inadvertent Failure to Designate**

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

25 **VII. CHALLENGING CONFIDENTIALITY DESIGNATIONS**

26 **A. Timing of Challenges**

27 1. Any party or Non-Party may challenge a designation of confidentiality at any time
28 that is consistent with the Court’s Scheduling Order.

1 **B. Meet and Confer**

2 1. The Challenging Party shall initiate the dispute resolution process under Local Rule
3 37.1 et seq.

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

10 **VIII. ACCESS TO AND USE OF PROTECTED MATERIAL**

11 **A. Basic Principles**

12 1. A Receiving Party may use Protected Material that is disclosed or produced by
13 another Party or by a Non-Party in connection with this Action only for prosecuting, defending,
14 or attempting to settle this Action. Such Protected Material may be disclosed only to the
15 categories of persons and under the conditions described in this Order. When the Action has been
16 terminated, a Receiving Party must comply with the provisions of Section XIV below.

17 2. Protected Material must be stored and maintained by a Receiving Party at a location
18 and in a secure manner that ensures that access is limited to the persons authorized under this
19 Order.

20 **B. Disclosure of “CONFIDENTIAL” Information or Items**

21 1. Unless otherwise ordered by the Court or permitted in writing by the Designating
22 Party, a Receiving Party may disclose any information or item designated “CONFIDENTIAL”
23 only to:

24 a. The Receiving Party’s Outside Counsel of Record in this Action, as well as
25 employees of said Outside Counsel of Record to whom it is reasonably necessary to
26 disclose the information for this Action;

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

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

4 d. The Court and its personnel;

5 e. Court reporters and their staff;

6 f. Professional jury or trial consultants, mock jurors, and Professional Vendors
7 to whom disclosure is reasonably necessary or this Action and who have signed the
8 “Acknowledgment and Agreement to be Bound” attached as Exhibit A hereto;

9 g. The author or recipient of a document containing the information or a
10 custodian or other person who otherwise possessed or knew the information;

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

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

22 **IX. PROTECTED MATERIAL SUPOENAED OR ORDERED PRODUCED**
23 **IN OTHER LITIGATION**

24 A. If a Party is served with a subpoena or a court order issued in other litigation that
25 compels disclosure of any information or items designated in this Action as “CONFIDENTIAL,”
26 that Party must:

27 1. Promptly notify in writing the Designating Party. Such notification shall include a
28 copy of the subpoena or court order;

1 2. Promptly notify in writing the party who caused the subpoena or order to issue in
2 the other litigation that some or all of the material covered by the subpoena or order is subject to
3 this Protective Order. Such notification shall include a copy of this Stipulated Protective Order;
4 and

5 3. Cooperate with respect to all reasonable procedures sought to be pursued by the
6 Designating Party whose Protected Material may be affected.

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

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

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

21 B. In the event that a Party is required, by a valid discovery request, to produce a Non-
22 Party’s confidential information in its possession, and the Party is subject to an agreement with
23 the Non-Party not to produce the Non-Party’s confidential information, then the Party shall:

24 1. Promptly notify in writing the Requesting Party and the Non-Party that some or all
25 of the information requested is subject to a confidentiality agreement with a Non-Party;

26 2. Promptly provide the Non-Party with a copy of the Stipulated Protective Order in
27 this Action, the relevant discovery request(s), and a reasonably specific description of the
28 information requested; and

1 3. Make the information requested available for inspection by the Non-Party, if
2 requested.

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

10 **XI. UNAUTHORIZED DISCLOSURE OF PROTECTED MATERIAL**

11 A. If a Receiving Party learns that, by inadvertence or otherwise, it has disclosed
12 Protected Material to any person or in any circumstance not authorized under this Stipulated
13 Protective Order, the Receiving Party must immediately (1) notify in writing the Designating
14 Party of the unauthorized disclosures, (2) use its best efforts to retrieve all unauthorized copies of
15 the Protected Material, (3) inform the person or persons to whom unauthorized disclosures were
16 made of all the terms of this Order, and (4) request such person or persons to execute the
17 "Acknowledgment and Agreement to be Bound" that is attached hereto as Exhibit A.

18 **XII. INADVERTENT PRODUCTION OF PRIVILEGED OR OTHERWISE**
19 **PROTECTED MATERIAL**

20 When a Producing Party gives notice to Receiving Parties that certain inadvertently
21 produced material is subject to a claim of privilege or other protection, the obligations of the
22 Receiving Parties are those set forth in Federal Rule of Civil Procedure 26(b)(5)(B). This
23 provision is not intended to modify whatever procedure may be established in an e-discovery
24 order that provides for production without prior privilege review. Pursuant to Federal Rule of
25 Evidence 502(d) and (e), insofar as the parties reach an agreement on the effect of disclosure of a
26 communication or information covered by the attorney-client privilege or work product
27 protection, the parties may incorporate their agreement in the Stipulated Protective Order
28 submitted to the Court.

1 **XIII. MISCELLANEOUS**

2 **A. Right to Further Relief**

3 Nothing in this Order abridges the right of any person to seek its modification by the
4 Court in the future.

5 **B. Right to Assert Other Objections**

6 By stipulating to the entry of this Protective Order, no Party waives any right it otherwise
7 would have to object to disclosing or producing any information or item on any ground not
8 addressed in this Stipulated Protective Order. Similarly, no Party waives any right to object on
9 any ground to use in evidence of any of the material covered by this Protective Order.

10 **C. Filing Protected Material**

11 A Party that seeks to file under seal any Protected Material must comply with Civil Local
12 Rule 79-5. Protected Material may only be filed under seal pursuant to a court order authorizing
13 the sealing of the specific Protected Material at issue. If a Party's request to file Protected Material
14 under seal is denied by the Court, then the Receiving Party may file the information in the public
15 record unless otherwise instructed by the Court.

16 **XIV. FINAL DISPOSITION**

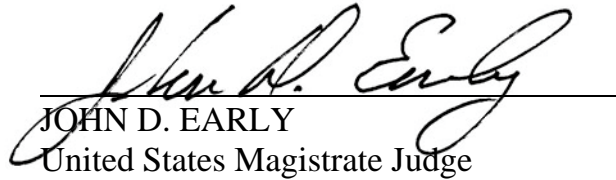
17 A. After the final disposition of this Action, as defined in Section V, within sixty (60)
18 days of a written request by the Designating Party, each Receiving Party must return all Protected
19 Material to the Producing Party or destroy such material. As used in this subdivision, "all
20 Protected Material" includes all copies, abstracts, compilations, summaries, and any other format
21 reproducing or capturing any of the Protected Material. Whether the Protected Material is
22 returned or destroyed, the Receiving Party must submit a written certification to the Producing
23 Party (and, if not the same person or entity, to the Designating Party) by the 60 day deadline that
24 (1) identifies (by category, where appropriate) all the Protected Material that was returned or
25 destroyed and (2) affirms that the Receiving Party has not retained any copies, abstracts,
26 compilations, summaries or any other format reproducing or capturing any of the Protected
27 Material. Notwithstanding this provision, Counsel are entitled to retain an archival copy of all
28 pleadings, motion papers, trial, deposition, and hearing transcripts, legal memoranda,

1 correspondence, deposition and trial exhibits, expert reports, attorney work product, and
2 consultant and expert work product, even if such materials contain Protected Material. Any such
3 archival copies that contain or constitute Protected Material remain subject to this Protective Order
4 as set forth in Section V.

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

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8 **FOR GOOD CAUSE SHOWN, IT IS SO ORDERED.**

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11 Dated: October 14, 2020

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13 JOHN D. EARLY
14 United States Magistrate Judge

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EXHIBIT A

ACKNOWLEDGMENT AND AGREEMENT TO BE BOUND

I, _____ [print or type full name], of _____
_____ [print or type full address], declare under penalty of perjury that I have read in its
entirety and understand the Stipulated Protective Order that was issue by the United States District
Court for the Central District of California on October 14, 2020 in Little Orbit LLC vs. Descendent
Studios, Inc., et al, United Stated District Court for the Central District of California, Case No.:
8:20-cv-00089-DOC-JDE. I agree to comply with and to be bound by all the terms of this
Stipulated Protective Order and I understand and acknowledge that failure to so comply could
expose me to sanctions and punishment in the nature of contempt. I solemnly promise that I will
not disclose in any manner any information or item that is subject to this Stipulated Protective
Order to any person or entity except in strict compliance with the provisions of 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 the terms of this Stipulated
Protective Order, even if such enforcement proceedings occur after termination of this action. I
hereby appoint _____ [print or type full name] of _____
_____ [print or type full address and telephone number] as my California agent for service
of process in connection with this action or any proceedings related to enforcement of this
Stipulated Protective Order.

Date: _____
City and State where sworn and signed: _____
Printed Name: _____
Signature: _____