

1 BARRY L. GOLDNER, SBN 107126
CHRISTOPHER E. DOMINGUEZ, SBN 193850
2 KLEIN, DENATALE, GOLDNER,
COOPER, ROSENLIB & KIMBALL, LLP
3 4550 California Ave., Second Floor
Bakersfield, CA 93309
4 Telephone: 661-395-1000
Facsimile: 661-326-0418
5 Email: bgoldner@kleinlaw.com;
cdominguez@kleinlaw.com

6
7 Attorneys for Defendants R.B. SANDRINI, INC.,
R.B. SANDRINI FARMS, L.P. d/b/a RB
8 SANDRINI FARMS AND RICHARD B.
SANDRINI

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

12 INTERNATIONAL FRUIT GENETICS, LLC,

13 Plaintiff,

14 v.

15 R.B. SANDRINI, INC., R.B. SANDRINI
FARMS, L.P. D/B/A RB SANDRINI FARMS,
16 AND RICHARD B. SANDRINI,

17 Defendants.

Case No. 1:15-CV-00101-MCE-JLT

**STIPULATED PROTECTIVE ORDER
FOR LITIGATION INVOLVING
PATENTS, HIGHLY SENSITIVE
CONFIDENTIAL INFORMATION
AND/OR TRADE SECRETS**

(Doc. 23)

1 **1. PURPOSES AND LIMITATIONS**

2 Disclosure and discovery activity in this action are likely to involve production of
3 confidential, proprietary, or private information for which special protection from public
4 disclosure and from use for any purpose other than prosecuting this litigation may be warranted.
5 Accordingly, the 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 protections on
7 all disclosures or responses to discovery and that the protection it affords from public disclosure
8 and use extends only to the limited information or items that are entitled to confidential treatment
9 under the applicable legal principles. The parties further acknowledge, as set forth in Section
10 12.3, below, that this Stipulated Protective Order does not entitle them to file confidential
11 information under seal; Civil Local Rule 141 sets forth the procedures that must be followed and
12 the standards that will be applied when a party seeks permission from the court to file material
13 under seal.

14 **2. DEFINITIONS**

15 2.1 Challenging Party: a Party or Non-Party that challenges the designation of
16 information or items under this Order.

17 2.2 “CONFIDENTIAL” Information or Items: information (regardless of how it is
18 generated, stored or maintained) or tangible things that qualify for protection under Federal Rule
19 of Civil Procedure 26(c).

20 2.3 Counsel: Outside Counsel of Record and House Counsel (as well as their support
21 staff).

22 2.4 Designating Party: a Party or Non-Party that designates information or items that it
23 produces in disclosures or in responses to discovery as “CONFIDENTIAL” or “HIGHLY
24 CONFIDENTIAL – ATTORNEYS’ EYES ONLY.”

25 2.5 Disclosure or Discovery Material: all items or information, regardless of the
26 medium or manner in which it is generated, stored, or maintained (including, among other things,
27 testimony, transcripts, and tangible things), that are produced or generated in disclosures or
28 responses to discovery in this matter.

1 2.6 Expert: a person with specialized knowledge or experience in a matter pertinent to
2 the litigation who (1) has been retained by a Party or its counsel to serve as an expert witness or
3 as a consultant in this action, (2) is not a past or current employee of a Party or of a Party's
4 competitor, and (3) at the time of retention, is not anticipated to become an employee of a Party
5 or of a Party's competitor.

6 2.7 "HIGHLY CONFIDENTIAL – ATTORNEYS' EYES ONLY" Information or
7 Items: extremely sensitive "Confidential Information or Items," disclosure of which to another
8 Party or Non-Party would create a substantial risk of serious harm that could not be avoided by
9 less restrictive means.

10 2.8 House Counsel: attorneys who are employees of a party to this action. House
11 Counsel does not include Outside Counsel of Record or any other outside counsel.

12 2.9 Non-Party: any natural person, partnership, corporation, association, or other legal
13 entity not named as a Party to this action.

14 2.10 Outside Counsel of Record: attorneys who are not employees of a party to this
15 action but are retained to represent or advise a party to this action and have appeared in this action
16 on behalf of that party or are affiliated with a law firm which has appeared on behalf of that party.

17 2.11 Party: any party to this action, including all of its officers, directors, employees,
18 consultants, retained experts, and Outside Counsel of Record (and their support staffs).

19 2.12 Producing Party: a Party or Non-Party that produces Disclosure or Discovery
20 Material in this action.

21 2.13 Professional Vendors: persons or entities that provide litigation support services
22 (e.g., photocopying, videotaping, translating, preparing exhibits or demonstrations, and
23 organizing, storing, or retrieving data in any form or medium) and their employees and
24 subcontractors.

25 2.14 Protected Material: any Disclosure or Discovery Material that is designated as
26 "CONFIDENTIAL," or as "HIGHLY CONFIDENTIAL – ATTORNEYS' EYES ONLY."

27 2.15 Receiving Party: a Party that receives Disclosure or Discovery Material from a
28 Producing Party.

1 **3. SCOPE**

2 The protections conferred by this Stipulation and Order cover not only Protected Material
3 (as defined above), but also (1) any information copied or extracted from Protected Material; (2)
4 all copies, excerpts, summaries, or compilations of Protected Material; and (3) any testimony,
5 conversations, or presentations by Parties or their Counsel that might reveal Protected Material.
6 However, the protections conferred by this Stipulation and Order do not cover the following
7 information: (a) any information that is in the public domain at the time of disclosure to a
8 Receiving Party or becomes part of the public domain after its disclosure to a Receiving Party as
9 a result of publication not involving a violation of this Order, including becoming part of the
10 public record through trial or otherwise; and (b) any information known to the Receiving Party
11 prior to the disclosure or obtained by the Receiving Party after the disclosure from a source who
12 obtained the information lawfully and under no obligation of confidentiality to the Designating
13 Party. Any use of Protected Material at trial shall be governed by a separate agreement or order.

14 **4. DURATION**

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

22 **5. DESIGNATING PROTECTED MATERIAL**

23 5.1 Exercise of Restraint and Care in Designating Material for Protection. Each Party
24 or Non-Party that designates information or items for protection under this Order must take care
25 to limit any such designation to specific material that qualifies under the appropriate standards.
26 To the extent it is practical to do so, the Designating Party must designate for protection only
27 those parts of material, documents, items, or oral or written communications that qualify – so that
28 other portions of the material, documents, items, or communications for which protection is not

1 warranted are not swept unjustifiably within the ambit of this Order.

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

6 If it comes to a Designating Party's attention that information or items that it designated
7 for protection do not qualify for protection at all or do not qualify for the level of protection
8 initially asserted, that Designating Party must promptly notify all other parties that it is
9 withdrawing the mistaken designation.

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

14 Designation in conformity with this Order requires:

15 (a) for information in documentary form (e.g., paper or electronic documents, but
16 excluding transcripts of depositions or other pretrial or trial proceedings), that the Producing
17 Party affix the legend "CONFIDENTIAL" or "HIGHLY CONFIDENTIAL – ATTORNEYS'
18 EYES ONLY" to each page that contains protected material.

19 A Party or Non-Party that makes original documents or materials available for inspection
20 need not designate them for protection until after the inspecting Party has indicated which
21 material it would like copied and produced. During the inspection and before the designation, all
22 of the material made available for inspection shall be deemed "HIGHLY CONFIDENTIAL –
23 ATTORNEYS' EYES ONLY." After the inspecting Party has identified the documents it wants
24 copied and produced, the Producing Party must determine which documents, or portions thereof,
25 qualify for protection under this Order. Then, before producing the specified documents, the
26 Producing Party must affix the appropriate legend ("CONFIDENTIAL" or "HIGHLY
27 CONFIDENTIAL – ATTORNEYS' EYES ONLY") to each page that contains Protected
28 Material.

1 (b) for testimony given in deposition or in other pretrial or trial proceedings, that the
2 Designating Party identify on the record, before the close of the deposition, hearing, or other
3 proceeding, all protected testimony and specify the level of protection being asserted. When it is
4 impractical to identify separately each portion of testimony that is entitled to protection and it
5 appears that substantial portions of the testimony may qualify for protection, the Designating
6 Party may invoke on the record (before the deposition, hearing, or other proceeding is concluded)
7 a right to have up to 21 days to identify the specific portions of the testimony as to which
8 protection is sought and to specify the level of protection being asserted. Only those portions of
9 the testimony that are appropriately designated for protection within the 21 days shall be covered
10 by the provisions of this Stipulated Protective Order. Alternatively, a Designating Party may
11 specify, at the deposition or up to 21 days afterwards if that period is properly invoked, that the
12 entire transcript shall be treated as “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL –
13 ATTORNEYS’ EYES ONLY.”

14 Parties shall give the other parties notice if they reasonably expect a deposition, hearing or
15 other proceeding to include Protected Material so that the other parties can ensure that only
16 authorized individuals who have signed the “Acknowledgment and Agreement to Be Bound”
17 (Exhibit A) are present at those proceedings. The use of a document as an exhibit at a deposition
18 shall not in any way affect its designation as “CONFIDENTIAL” or “HIGHLY
19 CONFIDENTIAL – ATTORNEYS’ EYES ONLY.”

20 Transcripts containing Protected Material shall have an obvious legend on the title page
21 that the transcript contains Protected Material. The Designating Party shall inform the court
22 reporter of these requirements. Any transcript that is prepared before the expiration of a 21-day
23 period for designation shall be treated during that period as if it had been designated “HIGHLY
24 CONFIDENTIAL – ATTORNEYS’ EYES ONLY” in its entirety unless otherwise agreed. After
25 the expiration of that period, the transcript shall be treated only as actually designated.

26 (c) for information produced in some form other than documentary and for any other
27 tangible items, that the Producing Party affix in a prominent place on the exterior of the container
28 or containers in which the information or item is stored the legend “CONFIDENTIAL” or

1 “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY.” If only a portion or portions of
2 the information or item warrant protection, the Producing Party, to the extent practicable, shall
3 identify the protected portion(s) and specify the level of protection being asserted.

4 5.3 Inadvertent Failures to Designate. If timely corrected, an inadvertent failure to
5 designate qualified information or items does not, standing alone, waive the Designating Party’s
6 right to secure protection under this Order for such material. Upon timely correction of
7 designation, the Receiving Party must make reasonable efforts to assure that the material is
8 treated in accordance with the provisions of this Order.

9 **6. CHALLENGING CONFIDENTIALITY DESIGNATIONS**

10 6.1 Timing of Challenges. Any Party or Non-Party may challenge a designation of
11 confidentiality at any time. Unless a prompt challenge to a Designating Party’s confidentiality
12 designation is necessary to avoid foreseeable, substantial unfairness, unnecessary economic
13 burdens, or a significant disruption or delay of the litigation, a Party does not waive its right to
14 challenge a confidentiality designation by electing not to mount a challenge promptly after the
15 original designation is disclosed.

16 6.2 Meet and Confer. The Challenging Party shall initiate the dispute resolution
17 process by providing written notice of each designation it is challenging and describing the basis
18 for each challenge. To avoid ambiguity as to whether a challenge has been made, the written
19 notice must recite that the challenge to confidentiality is being made in accordance with this
20 specific paragraph of the Protective Order. The parties shall attempt to resolve each challenge in
21 good faith and must begin the process by conferring directly (in voice to voice dialogue; other
22 forms of communication are not sufficient) within 14 days of the date of service of notice. In
23 conferring, the Challenging Party must explain the basis for its belief that the confidentiality
24 designation was not proper and must give the Designating Party an opportunity to review the
25 designated material, to reconsider the circumstances, and, if no change in designation is offered,
26 to explain the basis for the chosen designation. A Challenging Party may proceed to the next
27 stage of the challenge process only if it has engaged in this meet and confer process first or
28 establishes that the Designating Party is unwilling to participate in the meet and confer process in

1 a timely manner.

2 6.3 Judicial Intervention. If the Parties cannot resolve a challenge without court
3 intervention, the parties shall file a joint statement under the procedures of Civil Local Rule 251
4 within 21 days of the initial notice of challenge or within 14 days of the parties agreeing that the
5 meet and confer process will not resolve their dispute, whichever is earlier. Each such joint
6 statement must be accompanied by a competent declaration affirming that the movant has
7 complied with the meet and confer requirements imposed in the preceding paragraph. Failure by
8 the Designating Party to make such a statement, or motion, including the required declaration
9 within 21 days (or 14 days, if applicable) shall automatically waive the confidentiality
10 designation for each challenged designation. In addition, the Challenging Party may file a joint
11 statement under the procedures of Civil Local Rule 251 challenging a confidentiality designation
12 at any time if there is good cause for doing so, including a challenge to the designation of a
13 deposition transcript or any portions thereof. Any motion or joint statement brought pursuant to
14 this provision must be accompanied by a competent declaration affirming that the movant has
15 complied with the meet and confer requirements imposed by the preceding paragraph.

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

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

24 7.1 Basic Principles. A Receiving Party may use Protected Material that is disclosed or
25 produced by another Party or by a Non-Party in connection with this case only for prosecuting,
26 defending, or attempting to settle this litigation. Such Protected Material may be disclosed only to
27 the categories of persons and under the conditions described in this Order. When the litigation has
28 been terminated, a Receiving Party must comply with the provisions of section 13 below (FINAL

1 DISPOSITION).

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

4 7.2 Disclosure of “CONFIDENTIAL” Information or Items. Unless otherwise ordered
5 by the court or permitted in writing by the Designating Party, a Receiving Party may disclose any
6 information or item designated “CONFIDENTIAL” only to:

7 (a) the Receiving Party’s Outside Counsel of Record in this action, as well as employees
8 of said Outside Counsel of Record to whom it is reasonably necessary to disclose the information
9 for this litigation and who have signed the “Acknowledgment and Agreement to Be Bound” that
10 is attached hereto as Exhibit A;

11 (b) the officers, directors, and employees (including House Counsel) of the Receiving
12 Party to whom disclosure is reasonably necessary for this litigation and who have signed the
13 “Acknowledgment and Agreement to Be Bound” (Exhibit A);

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

17 (d) the court and its personnel;

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

21 (f) during their depositions, witnesses in the action to whom disclosure is reasonably
22 necessary; and

23 (g) the author or recipient of a document containing the information or a custodian or
24 other person who otherwise possessed or knew the information.

25 7.3 Disclosure of “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY”
26 Information or Items. Unless otherwise ordered by the court or permitted in writing by the
27 Designating Party, a Receiving Party may disclose any information or item designated “HIGHLY
28 CONFIDENTIAL – ATTORNEYS’ EYES ONLY” only to:

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

4 (b) Experts of the Receiving Party (1) to whom disclosure is reasonably necessary
5 for this litigation, (2) who have signed the “Acknowledgment and Agreement to Be Bound”
6 (Exhibit A), and (3) as to whom the procedures set forth in paragraph 7.4(a)(2), below, have been
7 followed];

8 (c) the court and its personnel;

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

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

14 7.4 Procedures for Approving or Objecting to Disclosure of “HIGHLY
15 CONFIDENTIAL – ATTORNEYS’ EYES ONLY”

16 Information or Items to Designated House Counsel or Experts.

17 (a)(1) Unless otherwise ordered by the court or agreed to in writing by the
18 Designating Party, a Party that seeks to disclose to an Expert (as defined in this Order) any
19 information or item that has been designated “HIGHLY CONFIDENTIAL – ATTORNEYS’
20 EYES ONLY” pursuant to paragraph 7.3(b) first must make a written request to the Designating
21 Party that (1) identifies the general categories of “HIGHLY CONFIDENTIAL – ATTORNEYS’
22 EYES ONLY” information that the Receiving Party seeks permission to disclose to the Expert,
23 (2) sets forth the full name of the Expert and the city and state of his or her primary residence, (3)
24 attaches a copy of the Expert’s current resume, (4) identifies the Expert’s current employer(s), (5)
25 identifies each person or entity from whom the Expert has received compensation or funding for
26 work in his or her areas of expertise or to whom the expert has provided professional services,
27 including in connection with a litigation, at any time during the preceding five years, and (6)
28 identifies (by name and number of the case, filing date, and location of court) any litigation in

1 connection with which the Expert has offered expert testimony, including through a declaration,
2 report, or testimony at a deposition or trial, during the preceding five years.

3 (b) A Party that makes a request and provides the information specified in the preceding
4 respective paragraphs may disclose the subject Protected Material to the identified Expert unless,
5 within 14 days of delivering the request, the Party receives a written objection from the
6 Designating Party. Any such objection must set forth in detail the grounds on which it is based.

7 (c) A Party that receives a timely written objection must meet and confer with the
8 Designating Party (through direct voice to voice dialogue) to try to resolve the matter by
9 agreement within seven days of the written objection. If no agreement is reached, the Party
10 seeking to make the disclosure to Designated House Counsel or the Expert may file a motion as
11 provided in Civil Local Rule 251. Any such motion must describe the circumstances with
12 specificity, set forth in detail the reasons why the disclosure to the Expert is reasonably necessary,
13 assess the risk of harm that the disclosure would entail, and suggest any additional means that
14 could be used to reduce that risk. In addition, any such motion must be accompanied by a
15 competent declaration describing the parties' efforts to resolve the matter by agreement (i.e., the
16 extent and the content of the meet and confer discussions) and setting forth the reasons advanced
17 by the Designating Party for its refusal to approve the disclosure.

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

21 **8. PROTECTED MATERIAL SUBPOENAED OR ORDERED PRODUCED IN**
22 **OTHER LITIGATION**

23 If a Party is served with a subpoena or a court order issued in other litigation that compels
24 disclosure of any information or items designated in this action as "CONFIDENTIAL" or
25 "HIGHLY CONFIDENTIAL – ATTORNEYS' EYES ONLY" that Party must:

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

28 (b) promptly notify in writing the party who caused the subpoena or order to issue in the

1 other litigation that some or all of the material covered by the subpoena or order is subject to this
2 Protective Order. Such notification shall include a copy of this Stipulated Protective Order; and

3 (c) cooperate with respect to all reasonable procedures sought to be pursued by the
4 Designating Party whose Protected Material may be affected.

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

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

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

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

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

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

1 3. make the information requested available for inspection by the Non-Party.

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

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

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

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

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

28

1 **12. MISCELLANEOUS**

2 12.1 Right to Further Relief. Nothing in this Order abridges the right of any person to
3 seek its modification by the court in the future.

4 12.2 Right to Assert Other Objections. By stipulating to the entry of this Protective
5 Order no Party waives any right it otherwise would have to object to disclosing or producing any
6 information or item on any ground not addressed in this Stipulated Protective Order. Similarly, no
7 Party waives any right to object on any ground to use in evidence of any of the material covered
8 by this Protective Order.

9 12.3 Filing Protected Material. Without written permission from the Designating Party
10 or a court order secured after appropriate notice to all interested persons, a Party may not file in
11 the public record in this action any Protected Material. A Party that seeks to file under seal any
12 Protected Material must comply with Civil Local Rule 141. Protected Material may only be filed
13 under seal pursuant to a court order authorizing the sealing of the specific Protected Material at
14 issue.

15 **13. FINAL DISPOSITION**

16 Within 60 days after the final disposition of this action, as defined in paragraph 4,
17 each Receiving Party must return all Protected Material to the Producing Party or destroy such
18 material. As used in this subdivision, “all Protected Material” includes all copies, abstracts,
19 compilations, summaries, and any other format reproducing or capturing any of the Protected
20 Material. Whether the Protected Material is returned or destroyed, the Receiving Party must
21 submit a written certification to the Producing Party (and, if not the same person or entity, to the
22 Designating Party) by the 60-day deadline that (1) identifies (by category, where appropriate) all
23 the Protected Material that was returned or destroyed, and (2) affirms that the Receiving Party has
24 not retained any copies, abstracts, compilations, summaries or any other format reproducing or
25 capturing any of the Protected Material. Notwithstanding this provision, Counsel are entitled to
26 retain an archival copy of all pleadings, motion papers, trial, deposition, and hearing transcripts,
27 legal memoranda, correspondence, deposition and trial exhibits, expert reports, attorney work
28 product, and consultant and expert work product, even if such materials contain Protected

1 Material. Any such archival copies that contain or constitute Protected Material remain subject to
2 this Protective Order as set forth in Section 4 (DURATION).

3 IT IS SO STIPULATED, THROUGH COUNSEL OF RECORD.
4

5 Dated: July 24, 2015

KLEIN, DENATALE, GOLDNER
COOPER, ROSENLIB & KIMBALL, LLP

6
7 By: /s/ Christopher E. Dominguez
CHRISTOPHER E. DOMINGUEZ
8 Attorneys for Defendants R.B. SANDRINI,
INC., R.B. SANDRINI FARMS, L.P. d/b/a
9 RB SANDRINI FARMS AND RICHARD
B. SANDRINI

10
11 Dated: July 24, 2015

CARLE, MACKIE, POWER & ROSS LLP

12 By: /s/ Richard C. O'Hare
RICHARD C. O'HARE
13 JOHN B. DAWSON
14 Attorneys for Plaintiff INTERNATIONAL
FRUIT GENETICS, LLC

15
16
17 **ORDER**

18
19 IT IS SO ORDERED.

20 Dated: July 27, 2015

/s/ Jennifer L. Thurston
UNITED STATES MAGISTRATE JUDGE