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9 Back Shop Tiefkühl GmbH

10 UNITED STATES DISTRICT COURT  
11 EASTERN DISTRICT OF CALIFORNIA

12 BACK SHOP TIEFKÜHL GMBH, a Foreign  
13 Corporation,

14 Plaintiff,

15 vs.

16 GN TRADE, INC., A California Corporation;  
17 VLADIMIR DEMIN; VLADIMIR  
18 SHEVCHENKO; ALEX ALMANSKY; and  
19 DOES 1 through 10, inclusive,

20 Defendants.

) Case No. 2:12-CV-00540-WBS-KJN

) **STIPULATED PROTECTIVE ORDER**

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Complaint Filed: February 29, 2012  
Trial Date: October 29, 2013

21 Plaintiff Back Shop Tiefkuhl GmbH (“Back Shop”) and Defendants GN Trade, Inc.,  
22 Vladimir Shevchenko, and Alex Almansky (collectively “Defendants”) jointly stipulate to entry by  
23 the Court of a Protective Order as set forth below pursuant to Rule 26(c) of the Federal Rules of  
24 Civil Procedure.

25 Based on the stipulation of the Plaintiff and Defendants (individually a “party” and  
26 collectively the “parties”) to entry of the following Protective Order pursuant to Rule 26(c), Federal  
27 Rule of Civil Procedure, and for good cause shown,

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MILLSTONE  
PETERSON &  
WATTS, LLP

1 IT IS HEREBY ORDERED THAT:

2 1. Any document, or portion thereof, and any other form of evidence or discovery  
3 contemplated under Rules 26 through 36 of the Federal Rules of Civil Procedure which, in the good  
4 faith opinion of a party contains any trade secret or other confidential development or commercial  
5 information (“Confidential Information”), may be designated by the parties as “CONFIDENTIAL”  
6 or “ATTORNEYS’ EYES ONLY” in accordance with the provisions of this Protective Order.

7 2. As a general guideline, Confidential Information should be designated  
8 CONFIDENTIAL when it contains confidential business, technical or other information that may be  
9 reviewed by the other party, the parties’ experts, and other representatives, but must be protected  
10 against disclosure to third parties. Confidential Information may be designated ATTORNEYS  
11 EYES ONLY when it contains highly sensitive information such as financial information, cost  
12 information, pricing information, sales information, customer license, customer, manufacturer,  
13 supplier, and vendor information, software and firmware for a party’s products, technical and  
14 development information about a party’s products, comparative product test results, business plans,  
15 marketing strategies, new product plans and competitive strategies, or any other information that  
16 would put the producing party at a competitive disadvantage if the information became known to  
17 employees of the other party or third parties. Confidential Information shall be clearly marked,  
18 noticed or designated “CONFIDENTIAL.” ATTORNEYS’ EYES ONLY information shall be  
19 clearly marked, noticed or designated as “ATTORNEYS’ EYES ONLY.”

20 3. Confidential Information must be designated as follows:

21 (a) Documents or copies provided to another party in response to discovery requests  
22 containing Confidential Information may be designated by any party as either CONFIDENTIAL or  
23 ATTORNEYS’ EYES ONLY by marking the page or the pages on which the Confidential  
24 Information appears with the legend “CONFIDENTIAL” or “ATTORNEYS’ EYES ONLY.”

25 (b) In lieu of marking the original of a document which contains Confidential  
26 Information prior to inspection, a party may orally designate documents being produced for  
27 inspection as CONFIDENTIAL or ATTORNEYS’ EYES ONLY thereby making them subject to  
28 this Protective Order. However, copies of such documents ultimately produced must be marked

1 CONFIDENTIAL or ATTORNEYS' EYES ONLY at the time any such documents are supplied to  
2 inspecting counsel in order to make such copies subject to this Protective Order.

3 (c) Confidential Information disclosed at a deposition, whether by testimony or use of a  
4 document or thing, may be designated as CONFIDENTIAL or ATTORNEYS' EYES ONLY by  
5 clearly indicating on the record at the deposition the specific testimony containing Confidential  
6 Information that is to be made subject to the provisions of this Protective Order. Documents, things,  
7 or information not designated on the record of the deposition as CONFIDENTIAL or  
8 ATTORNEYS' EYES ONLY may thereafter be designated as such by notifying the other party in  
9 writing within fourteen (14) days of the receipt of the transcript of such deposition. During that  
10 fourteen (14) day period, the deposition transcript, and any documents, things, and information shall  
11 be treated as ATTORNEYS' EYES ONLY. If a designation is made, each party shall attach a copy  
12 of any such written notification to the face of the deposition transcript and each copy thereof in its  
13 possession, custody or control.

14 (d) Confidential Information contained in responses to interrogatories, other discovery  
15 requests or responses, affidavits, briefs, memoranda or other papers filed with the Court, may be  
16 designated by prominently marking every page of such documents containing Confidential  
17 Information with the legend CONFIDENTIAL or ATTORNEYS' EYES ONLY. Copies of such  
18 items filed with the Court shall be maintained under seal pursuant to the provisions of Section 11  
19 hereof.

20 (e) Tangible objects constituting or containing Confidential Information may be  
21 designated by affixing to the object or its container a label or tag marked CONFIDENTIAL or  
22 ATTORNEYS' EYES ONLY.

23 (f) Notwithstanding any other provisions of the Protective Order, any party may  
24 designate as CONFIDENTIAL or ATTORNEYS' EYES ONLY any testimony of and/or documents  
25 produced by that party's agent, sales representative, or technical or business consultant, and such  
26 testimony or documents shall be treated as CONFIDENTIAL or ATTORNEYS' EYES ONLY  
27 subject to being contested pursuant to paragraph 7 herein.

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1 (g) Should any person or entity with access to documents, things or information  
2 designated as CONFIDENTIAL or ATTORNEYS' EYES ONLY make copies, extracts, summaries,  
3 descriptions, projections and/or extrapolations of or from the documents, things or information  
4 designated as CONFIDENTIAL or ATTORNEYS' EYES ONLY or any portions thereof, such  
5 copies, extracts, summaries, descriptions, projections and/or extrapolations shall be stamped  
6 CONFIDENTIAL or ATTORNEYS' EYES ONLY consistent with the original information and  
7 treated as Confidential Information pursuant to the provisions of this Protective Order.

8 4. Confidential Information designated ATTORNEYS' EYES ONLY shall only be  
9 disclosed to and made available to the following:

10 (a) "Outside Trial Counsel" of record and employees of such attorneys to whom it is  
11 necessary that the material be shown for purposes of this litigation; court reporters and  
12 videographers receiving or transcribing the documents, things or information in connection with  
13 official reporting (for example, at a deposition or a hearing); the Court; outside photocopy, imaging,  
14 database, graphics, design, computer simulation modeling, or exhibit production services, to the  
15 extent necessary to assist such Outside Trial Counsel for purposes of this litigation.

16 (b) Outside consultants, or expert witnesses who are not employees, directors, officers, or  
17 agents of any party, performing services solely in connection with the prosecution or defense of this  
18 litigation together with their clerical or support personnel, provided that each consultant or expert  
19 executes an acknowledgement pursuant to Section 6 herein.

20 (c) Witnesses who are expected to testify in Court or in a deposition only if such persons  
21 have prior knowledge of the ATTORNEYS' EYES ONLY information.

22 (d) Court reporters and videographers of any deposition in this action and their associated  
23 employees and personnel.

24 5. Confidential Information designated CONFIDENTIAL shall only be disclosed to and  
25 made available to the following:

26 (a) The persons identified in Subsections 4(a), 4(b), 4(c), and 4(d);

27 (b) The parties (i.e. employees of the corporate parties); and

28 (c) Witnesses who are expected to testify in court or in a deposition only if such persons

1 have prior knowledge of the CONFIDENTIAL information.

2           6.       Prior to receiving Confidential Information, any person in subsections 4(a), 4(b), 4(c),  
3 4(d), 5(b) and 5(c) shall sign an acknowledgement in the form of Exhibit A attached hereto. Any  
4 individual identified pursuant to this subsection who has executed Exhibit A shall be treated as  
5 subject to this Protective Order. A willful violation of any material term of this Protective Order by  
6 any such individual may be punishable as contempt of court.

7           7.       If the party to whom CONFIDENTIAL or ATTORNEYS' EYES ONLY documents,  
8 things or information has been produced believes that any of the documents, things or information  
9 has been improperly designated, the receiving party may at any time request the party which made  
10 the designation to cancel the designation with respect to any documents, things or information and to  
11 agree that thereafter such document, thing or information will no longer be subject to certain or all of  
12 the provisions of this Protective Order. Such request shall be in writing and shall particularly  
13 identify the information that is contested, including the reasons supporting the contentions. If the  
14 party which produced the documents, things, or information objects to the requested declassification,  
15 it must, within two weeks of its receipt of the request to declassify or such other time as the parties  
16 may mutually agree, file and serve a motion for a protective order supporting its classification. The  
17 party claiming the higher designation of protection shall have the burden of establishing the status of  
18 the particular document, thing, or information. If no such motion is timely filed, the party objecting  
19 to the designation shall be entitled to treat the documents and/or information in accordance with the  
20 written request of such party. If the producing party files such a motion, the document or  
21 information at issue will continue to be entitled to the protections accorded by this Stipulated  
22 Protective Order pursuant to their original designation until and unless the Court rules otherwise.

23           8.       No copies of documents, things or information designated as CONFIDENTIAL or  
24 ATTORNEYS' EYES ONLY shall be received, kept, or maintained by persons other than those  
25 authorized to do so under this Protective Order.

26           9.       When a party gives notice to another party that, during an oral deposition,  
27 CONFIDENTIAL or ATTORNEYS' EYES ONLY documents, things or information are expected  
28 to be produced, used or discussed during the deposition, then only persons authorized to receive such

1 information pursuant to this Protective Order will be allowed to attend that portion of the deposition  
2 on behalf of the receiving party.

3 10. To the extent it is necessary to file with the Court any material containing or  
4 materially referring to any CONFIDENTIAL or ATTORNEYS' EYES ONLY document(s),  
5 thing(s), or information, the parties shall file such documents under seal.

6 11. Each party's production of any document(s), thing(s), or information designated as  
7 CONFIDENTIAL or ATTORNEYS' EYES ONLY shall be solely for purposes of and use in this  
8 action, and those documents, things and information shall not be used for any other purpose. If any  
9 such document(s), thing(s), or information properly becomes a matter of public record without an  
10 order of Court causing the same to be retained under seal or retained in an otherwise confidential  
11 manner, then the parties will have the same rights to utilize the document, things, or information as  
12 the public at large under the First Amendment.

13 12. Within one hundred twenty (120) days after the conclusion of this action and any  
14 appeal taken here from, all documents, things, and other materials produced or designated as  
15 containing Confidential Information, and all reproductions thereof, shall be returned to the party who  
16 produced them except that counsel for each party may retain one entire set of pleadings and  
17 depositions (including exhibits) in this case. Any party may, at their option, destroy annotated  
18 copies or summaries of Confidential Information in lieu of returning those copies and summaries to  
19 the producing party.

20 13. If another court or an administrative agency subpoenas or orders production of  
21 stamped confidential documents that a party has obtained under the terms of this Protective Order,  
22 such party shall promptly notify the party or other person who designated the document as  
23 confidential of the pendency of such subpoena or order in sufficient time to allow for the designating  
24 party to seek a protective order.

25 14. Nothing in this Protective Order shall prevent or otherwise restrict counsel from  
26 rendering advice to their clients and, in the course thereof, relying generally on examination of  
27 stamped confidential documents; provided, however, that in rendering such advice and otherwise  
28 communicating with such clients, counsel shall not make specific disclosure of any item, or the

1 information contained therein, so designated except pursuant to the provisions of this Protective  
2 Order.

3 15. Persons obtaining access to stamped confidential documents under this Protective  
4 Order shall use the information only for preparation and trial of this litigation (including appeals and  
5 retrials), and shall not use such information for any other purpose, including business, governmental,  
6 commercial, administrative, or other judicial proceedings.

7 16. The attorneys of record are responsible for employing reasonable measures,  
8 consistent with this Protective Order, to control duplication of, access to, and distribution of copies  
9 of stamped confidential documents.

10 17. The disclosure of Confidential Information under the terms of the Protective Order  
11 shall not constitute a waiver of confidentiality for the documents and things so designated.  
12 Specifically:

13 (a) Review of the confidential documents and information by counsel, experts, or  
14 consultants for the litigants in the litigation shall not waive the confidentiality of the documents or  
15 objections to production.

16 (b) The inadvertent, unintentional, or in camera disclosure of confidential  
17 documents and information shall not, under any circumstances, be deemed a waiver, in whole or in  
18 part, of any party's claims of confidentiality. If a party through inadvertence or mistake produces  
19 discovery of any Confidential Information without marking it with the legend CONFIDENTIAL or  
20 ATTORNEYS EYES ONLY, or by designating it with the incorrect level of confidentiality, the  
21 producing party may give written notice to the receiving party that the document or information  
22 contains Confidential Information and should be treated as such. Upon receipt of such notice, and  
23 upon receipt of properly marked materials, the receiving party shall return or destroy said unmarked  
24 or improperly marked materials and not retain copies thereof.

25 18. Notwithstanding the termination of this action, persons who have had access to  
26 CONFIDENTIAL or ATTORNEYS' EYES ONLY documents, things or information shall remain  
27 subject to the terms of this Protective Order.

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1           19.     This Protective Order may be modified by written agreement of the parties or by  
2 further order of the Court. Each party shall also have the right to petition the Court to modify this  
3 Protective Order or for additional protection under Fed.R.Civ.P. 26(c).

4           20.     The terms of the this Protective Order are applicable to Confidential Information  
5 produced by a non-party, such non-party may designate Confidential Information produced by it in  
6 connection with this litigation, and the Confidential Information is protected by the remedies and  
7 relief provided by the Protective Order. Moreover, if either party believes that the records to be  
8 provided by a non-party contains CONFIDENTIAL or ATTORNEYS' EYES ONLY documents, the  
9 party asserting the confidentiality protection can designate the documents as such on behalf of the  
10 third party and/or in addition to the third party designation by advising the party that issued the third  
11 party subpoena within 14 days of the service of the deposition notice and/or subpoena on the party  
12 alleging the confidentiality protection. If such designation is made all records to be produced by a  
13 third party shall be designated as ATTORNEYS' EYES ONLY until these are declassified as  
14 provided in this Protective Order.

15           21.     This Protective Order is not intended to expand the right of the parties hereto to  
16 demand privileged information that is not relevant to these proceedings or to otherwise expand the  
17 scope of discovery under Rule 26 of the Federal Rules of Civil Procedure.

18           IT IS APPROVED AND SO ORDERED, except that the marking of materials as  
19 "Confidential" and "Attorneys' Eyes Only" will not automatically result in the sealing of  
20 such materials filed with the court. The sealing of documents is never automatic, and the  
21 parties are required to file a request to seal in accordance with Local Rule 141 and the  
22 Federal Rules of Civil Procedure. Additionally, nothing in this order shall be construed as to  
23 limit in advance the examination of, or testimony by, parties or non-parties at any court  
24 hearing or trial. Such determinations will only be made by the court at the hearing or trial, or  
25 upon an appropriate motion.





**EXHIBIT A**

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**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA**

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BACK SHOP TIEFKUHL GMBH, a Foreign  
Corporation,

Plaintiff,

vs.

GN TRADE, INC, a California Corporation,  
VLADIMIR DEMIN, VLADIMIR  
SHEVCHENKO, ALEX ALMANSKY and  
DOES 1 through 10, inclusive,

Defendants.

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**CASE NO. 2:12-CV-00540-WBS-KJN**

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**STIPULATED PROTECTIVE ORDER**

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Complaint Filed: February 29, 2012  
Trial Date: October 29, 2013

This is to certify that I have read and understand the Stipulated Protective Order (the “Order”) entered in the above-captioned action and agree: (a) to be bound by the terms and conditions set forth in the Order; (b) not to reveal to anyone, other than another persons listed in Section 6 of the Order, any documents, things or information designated under the Order as “Confidential”; (c) not to reveal to anyone, other than another persons identified in Section 5 of the Order, any documents, things or information designated under the Order as “ATTORNEYS’ EYES ONLY” and (d) to utilize such documents, things and information solely for purposes of and in connection with the above-captioned action. In addition, I hereby consent to the jurisdiction of the above-identified Court for purposes of enforcing the Order. I agree that a willful violation of any material term of the Order may be punishable as contempt of court.

Dated: \_\_\_\_\_

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Printed Name