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13 PC GUARDIAN ANTI-THEFT PRODUCTS, INC. and FELLOWES, INC.

14
15 IN THE UNITED STATES DISTRICT COURT

16 NORTHERN DISTRICT OF CALIFORNIA

17
18 ACCO BRANDS, INC.,
Plaintiff,

19 v.

20 PC GUARDIAN ANTI-THEFT
21 PRODUCTS, INC. and FELLOWES, INC.,
22 Defendants.

No. 04-03526 SI

**[PROPOSED] STIPULATED
PROTECTIVE ORDER**

1 **1. Proceedings and Form of Information Governed**

2 This Protective Order governs any document or things, or portion thereof, information, or
3 any other form of evidence or discovery contemplated under Rules 26 to 37 and 45 of the
4 Federal Rules of Civil Procedure which is designated as “confidential information” as that term
5 is defined in this Protective Order, and is furnished by any Party or nonparty to any Party in
6 connection with this action. Any document or form of evidence or discovery, or portion thereof,
7 contemplated by the Federal Rules of Civil Procedure including, but not limited to, documents
8 and tangible things, responses to interrogatories, responses to requests for admissions, deposition
9 testimony and exhibits, and all copies, extracts, summaries, and compilations thereof, may be
10 designated as “confidential information.”

11 **2. Definition of Confidential Information**

12 a. The term “confidential information” shall be interpreted to mean information that
13 is confidential and/or proprietary to one of the Parties or to the producing person, including any
14 trade secret or other confidential research, development, or commercial information. Research,
15 development, and commercial information may not be considered “confidential” for purposes of
16 this Protective Order if it is (1) generally known, or (2) has been supplied to another Party who
17 was not under a legal obligation to maintain the confidentiality of the information.

18 b. This Protective Order includes not only those items or things that are expressly
19 designated as “confidential information,” but also any information derived therefrom, and all
20 copies, excerpts, and summaries thereof, as well as testimony and oral conversation derived
21 therefrom or related thereto.

22 c. By entering this Protective Order, this Court is making no finding whether or not
23 any information that a producing party may designate as “confidential information” under this
24 Protective Order qualifies as a trade secret under the California Uniform Trade Secrets Act
25 (Civ.C. §3426) or any other applicable trade secret statutes.

26 **3. Designation of Confidential Information**

27 a. Any information produced in this action that is reasonably believed by a Party or
28 the producing person to contain “confidential information” may be designated by the Party or the
29 producing person as CONFIDENTIAL or HIGHLY CONFIDENTIAL -ATTORNEY’S EYES
30 ONLY, as appropriate.

31 b. A Party or producing person shall designate information as HIGHLY
32 CONFIDENTIAL –ATTORNEY’S EYES ONLY only when the designating Party or person in
33 good faith believes broader disclosure of the “confidential information” will harm its competitive
34 position if known by a Party or person other than the designating Party or person.

1 c. The existence of this Protective Order shall be disclosed to any person producing
2 documents or tangible things, or testimony, in this action who may reasonably be expected to
3 desire confidential treatment for such documents or tangible things, or testimony. Any such
4 person, or any Party, may designate appropriate documents or tangible things, or testimony,
5 produced by such person as “confidential information.”

6 d. The designation of “confidential information” shall be made at the following
7 time:

8 i. for documents and tangible things, at the time of the production of the
9 documents or things for inspection pursuant to Rule 34(b) of the Federal Rules of Civil
10 Procedure. If a producing person or Party elects to produce documents and tangible
11 things for inspection pursuant to Rule 34(b) of the Federal Rules of Civil Procedure, then
12 no designation need be made prior to the inspection, and all such documents and tangible
13 things shall be considered HIGHLY CONFIDENTIAL – ATTORNEY’S EYES ONLY
14 until such time as copies of such documents or things are produced to the receiving Party
15 and are not so designated;

16 ii. for written responses to interrogatories or requests for admissions, at the time
17 of the written response;

18 iii. for declarations and pleadings, at the time of the filing of such declaration or
19 pleading (*see* ¶ 9(d)); and

20 iv. for deposition testimony, at the time of the testimony (*see* ¶ 9(b)) or in writing
21 within ten (10) business days after receipt by the designating Party of the transcript of the
22 deposition.

23 e. The designation of “confidential information” shall be made in the following manner:

24 i. for documents, by placing a legend on each page of each such document;

25 ii. for tangible objects, by placing a label or tag on the object or the container
26 therefore or, if not practicable, as otherwise agreed:

27 iii. for written responses to interrogatories or requests for admissions, on the face
28 of any such responses;

iv. for declarations or pleadings, on the face of any such declaration or pleading;

v. for depositions, following the procedure set forth in Paragraph 9(b) or in
writing within ten (10) business days after receipt by the designating Party of the
transcript of the deposition; and

1 vi. for material produced in electronic format, by placing a label on the CD or
2 other media containing the material.

3 f. It shall be the duty of the Party or person seeking protection of “confidential
4 information” to identify those materials and testimony that are to be considered “confidential
5 information” to the receiving Party.

6 g. Each Party retains the right subsequently to redesignate documents and to require such
7 redesignated documents to be treated in accord with such redesignation from the time the
8 receiving Party is notified in writing of the redesignation.

9 h. The inadvertent or unintentional disclosure of “confidential information” by the
10 designating Party or person, regardless of whether the information was designated “confidential
11 information” at the time of disclosure, shall not be treated as a waiver in whole or in part of a
12 designating Party’s or person’s claim of confidentiality, either as to the specific information
13 disclosed or as to any other information on the same or a related subject.

14 i. Should a receiving Party determine that a document subject to privilege or immunity
15 from discovery has been produced inadvertently, the receiving Party shall bring it to the attention
16 to the producing Party or person within fourteen (14) days of the date on which the producing
17 Party or person becomes aware of the inadvertent production. The inadvertently disclosed
18 documents and all copies shall be returned promptly to the producing Party or person. Such
19 inadvertent disclosure shall not result in the waiver of any associated privilege. Nothing in this
20 paragraph limits the right of any Party to object to the assertion of the privilege.

21 j. In the event that a person, other than a Party, produces documents or information that a
22 Party reasonably believes is protected from discovery, in whole or in part, by the attorney-client
23 privilege, the work product doctrine, or other applicable privilege, the Parties shall not be
24 deemed to have waived the applicable privilege(s), so long as the Party claiming a privilege
25 provides written notice of its claim of privilege in the produced documents or information within
26 fourteen (14) days of the date on which it becomes aware of the production. Upon receipt of such
27 notice, all receiving Parties shall return the purportedly privileged documents or information to
28 the party claiming the privilege, and destroy any copies of the purportedly privileged documents.
The Parties agree to refrain from taking the position that the documents or information are not
privileged on the ground that they were produced in this action. Nothing in this paragraph limits
the right of any Party to object to the assertion of the privilege.

k. In the event that a Party reasonably believes a non-party may be in possession of that
Party’s privileged or “confidential information,” that Party may request that any documents or
information provided by that non-party be temporarily treated as HIGHLY CONFIDENTIAL –
ATTORNEY’S EYES ONLY by serving a written notice of that claim on all other Parties. This
temporary designation shall last fourteen (14) days and at the expiration of that fourteen-day

1 period, the non-party's documents and information will be treated as non-confidential, unless the
2 producing person or a Party designates the documents or information as "confidential
information" under this Protective Order.

3 **4. Use Of "Confidential Information" Generally**

4 a. Information designated as "confidential information" obtained pursuant to discovery in
5 this action shall be subject to this Protective Order. Such "confidential information" may be used
6 only for purposes of preparation, trial, and appeal of this action, and may not be used for any
7 other litigation or business, commercial, competitive, personal, or other purpose whatsoever.
8 Such "confidential information" shall be held in confidence by each person to whom it is
9 disclosed, and may not be disclosed to any person or entity, except as permitted by this
Protective Order. All produced "confidential information" shall be carefully maintained by the
receiving Party in secure facilities and access to such "confidential information" shall be
permitted only to persons having access thereto under the terms of this Protective Order.

10 b. "Confidential information" shall be kept to a level of confidentiality, as designated by
11 the designating Party, as set forth in 3(a) and (b).

12 **5. Resolution Of Disputes Regarding Designation Of "Confidential**
13 **Information"**

14 a. A Party shall not be obligated to challenge the propriety of a confidential designation
15 and a failure to do so shall not preclude a subsequent challenge of the propriety of such
16 designation.

17 b. In the event that any Party disputes the designation of "confidential information," such
18 Party shall so inform the designating Party by written notice, and the Parties shall meet and
confer in a good faith effort to resolve the dispute.

19 c. In the event that the Parties are unable to resolve a dispute regarding designation of
20 "confidential information" as HIGHLY CONFIDENTIAL, the Party disputing the designation
21 may request appropriate relief from the Court. The burden of establishing that information has
22 been properly designated as "confidential information" is on the Party making such designation.
This Protective Order does not alter the burden imposed by law on any Party seeking to uphold
any limitation on the production or dissemination of materials.

23 d. In the event that the Parties are unable to resolve a dispute regarding designation of
24 "confidential information" as HIGHLY CONFIDENTIAL – ATTORNEY'S EYES ONLY, the
25 Party disputing the designation may request appropriate relief from the Court. The burden of
26 establishing that information has been properly designated as HIGHLY CONFIDENTIAL –
27 ATTORNEY'S EYES ONLY, is on the party making such designation. This Protective Order
does not alter the burden imposed by law on any Party seeking to uphold any limitation on the

1 production or dissemination of materials. In connection with a dispute, any such document
2 designated HIGHLY CONFIDENTIAL – ATTORNEY’S EYES ONLY shall be submitted to
the Judge (or Magistrate Judge) for *in camera* review if the Court so requests.

3 e. Counsel for a non-designating Party shall have the right to assert that any information
4 designated confidential is, in fact, in the public domain. Any information which, prior to its
5 disclosure under Protective Order, is either in the possession or knowledge of a non-designating
6 Party or person who, absent this Order, is under no restriction with respect to the dissemination
7 of such purported confidential information, or is public knowledge or, which, after disclosure,
8 becomes public knowledge other than through an act or omission of a Party receiving the
9 information designated as confidential, shall be deemed to be in the public domain. A
nondesignating Party or person asserting that designated “confidential information” is in the
public domain shall, prior to any disclosure of such information (other than as provided by this
Order), either obtain the written approval of the designating Party, or the approval of the Court to
make such disclosure.

10 f. If a non-designating Party challenges the confidentiality or designation of information
11 produced pursuant to this Order, the designating person or Party shall have the burden of
12 establishing the confidential nature of the material and/or the proper categorization thereof. The
13 challenged designation shall remain in effect unless and until amended by order of the Court or
agreement of the designating Party.

14 **6. Access to CONFIDENTIAL Information**

15 a. Access to “confidential information” designated CONFIDENTIAL shall be limited to
16 the following “Qualified Persons.”

17 i. The outside attorneys of record in this action, specifically limited to the
18 attorneys of record at the law firms of Howrey LLP and Kolisch Hartwell, P.C., and their
19 respective employees and staff who are responsible for assisting in the preparation, trial,
20 or appeal of this action, are Qualified Persons. Before any such person is permitted access
to any of the “confidential information,” such person shall be informed of the existence
and contents of this Protective Order.

21 ii. Members of organizations retained by the outside attorneys of record to
22 provide litigation support services in this action are Qualified Persons. Before any such
23 person is permitted access to any of the “confidential information,” such person shall be
24 informed of the existence and contents of this Protective Order, and shall agree to comply
with its terms.

25 iii. Independent experts and independent consultants (collectively, “experts”)
26 retained in this action by the outside attorneys of record, in so far as the attorneys of
27 record may deem it necessary for the preparation, trial, or appeal of this case to consult

1 with such experts are Qualified Persons, provided that any such actual or contemplated
2 expert is not otherwise employed in any capacity by any of the Parties (including their
3 affiliates, predecessors-in-interest, or successors-in-interest) hereto or their respective
4 counsel. Any expert must agree to be bound by the confidentiality restrictions contained
5 in this Protective Order and acknowledge that such confidentiality restrictions shall bind
6 the expert in all future employment by other entities. Before any such expert is permitted
7 access to any of the “confidential information,” the following three conditions must be
8 met: first, such expert must be informed of the existence and contents of this Protective
9 Order, and the conditions set forth in Paragraph 8 of this Protective Order must be
10 fulfilled, second, the expert must be identified to opposing counsel and the
11 acknowledgement form signed by the expert must be sent promptly to all counsel of
12 record and, third, opposing counsel will have ten (10) business days after receipt of the
13 expert’s identity and signed acknowledgment to object in good faith, in writing, to
14 disclosure of “confidential information” on the basis that disclosure of “confidential
15 information” to the proposed expert would result in material risk of disclosure or misuse
16 of the “confidential information.” If such objection is made, the disclosure shall not be
17 made until the objection is resolved in Court or otherwise. Notwithstanding any of the
18 foregoing, the Parties may petition the Court for leave to retain an expert who is
19 otherwise disqualified by the provisions of this Paragraph, petition the Court for
20 disqualification of an expert who is not otherwise disqualified by the provisions of this
21 Paragraph, and petition the Court to condition an expert’s engagement in a manner not
22 otherwise provided for, or otherwise contemplated, by this Protective Order.

23 iv. In-house counsel of the receiving Party who are actively engaged in the
24 management or conduct of this case and their supporting staff are Qualified Persons.
25 Before any such person is permitted access to any of the “confidential information,” such
26 person shall be informed of the existence and contents of this Protective Order.

27 v. The following owners, employees, or agents of the Parties are Qualified
28 Persons: Boris Elisman, Steven Rubin, Dan Walk, Janet Dulsky, and Joe McCabe, Steve
Carson, Ann Laureson, and Noah Groth. Before any such person is permitted access to
any of the “confidential information,” such person shall be informed of the existence and
contents of this Protective Order. In the event that one of the above persons ceases to be
an owner, employee, or agent of a Party, as the case may be, that Party may designate a
replacement owner, employee, or agent as a Qualified Person. Prior to making any
disclosure of “confidential information” to the designated replacement, the Party shall
provide notice of the substitution in writing to the other Parties. Any other Party may
object to the substitution pursuant to the procedure set forth in Paragraph 6(a)(iii) of this
Protective Order relating to experts.

vi. Court officials involved in this litigation (including court reporters, persons
operating video recording equipment, and any special master appointed by the Court) are
Qualified Persons.

1 vii. Such other persons as hereafter may be designated by prior written agreement
2 of the Parties in this action or by order of the Court are Qualified Persons. Before any
3 such person is permitted access to any of the “confidential information,” such person
4 shall be informed of the existence and contents of this Protective Order.

5 viii. Michael V. Ward, General Counsel, Kensington Computer Products Division
6 & Senior Corporate Counsel, ACCO Brands Corporation.

7 b. All materials containing “confidential information” marked CONFIDENTIAL shall be
8 maintained at a location and under circumstances to ensure that access is limited to those persons
9 entitled to have access under this Protective Order.

10 7. **Access To CONFIDENTIAL – ATTORNEY’S EYES ONLY Information**

11 a. Access to information marked HIGHLY CONFIDENTIAL – ATTORNEY’S EYES
12 ONLY shall be limited to the “Qualified Persons” identified in Paragraph 6(a)(i), (ii), (iii), (vi),
13 (vii), and (viii).

14 b. All materials containing “confidential information” marked HIGHLY
15 CONFIDENTIAL – ATTORNEY’S EYES ONLY shall be maintained at a location and under
16 circumstances to ensure that access is limited to those persons entitled to have access under this
17 Protective Order. Under no circumstances is information marked HIGHLY CONFIDENTIAL –
18 ATTORNEY’S EYES ONLY to be maintained on the premises of the Parties to this action.

19 c. Any Qualified Person (as defined in Paragraph 7(a) but excluding Qualified
20 Persons identified in Paragraph 6(a)(i)), who is in-house counsel of the receiving Party and who
21 receives information designated as HIGHLY CONFIDENTIAL – ATTORNEY’S EYES ONLY
22 shall not participate in any way, directly or indirectly, in the prosecution or support of the
23 prosecution of any patent application, *ex parte* reexamination, *inter partes* reexamination other
24 than between ACCO and PC Guardian, or reissue of a patent in the field of computer security
25 locks for a period of three years after that person’s last review of the designated information or
26 from the termination of the litigation, whichever is earlier, or as otherwise agreed to by the
27 Parties. This provision shall not prevent participation in *inter partes* reexamination proceedings
28 between ACCO and PC Guardian. An information barrier shall be maintained to insure that
persons who are not intended to have access to HIGHLY CONFIDENTIAL – ATTORNEY’S
EYES ONLY information are precluded from accessing that information.

29 8. **Disclosure Of “Confidential Information”**

30 a. All individuals to whom “confidential information” is to be disclosed shall be informed
31 of the existence of this Protective Order, shall be provided with a copy thereof, and shall be

1 instructed that such matter may not be used other than in connection with this action, and may
2 not be disclosed to anyone or used other than as contemplated by this Order.

3 b. Before disclosing any document, information, or material designated as “confidential
4 information” to any person identified in Paragraphs 6 and 7 of this Protective Order, each
5 individual, except: (1) the in-house counsel and outside attorneys of record for the parties in this
6 action who are actively engaged in the conduct of this litigation, and the partners, associates,
7 secretaries, paralegal assistants, agents, and employees of such an attorney; and (2) court
8 officials involved in this litigation (including any Court appointed personnel or employees), shall
9 acknowledge in writing in the form attached hereto as Exhibit A that he/she has been informed of
10 this Order and that:

11 i. the signatory has read and understands this Order and agrees to be bound
12 by its terms in all respects;

13 ii. the signatory understands that disclosure of “confidential information,”
14 other than as provided in this Protective Order, may constitute contempt of Court; and

15 iii. the signatory consents to the exercise of personal jurisdiction by this Court for
16 the purposes of enforcing the Protective Order.

17 c. It shall be the obligation of the receiving Party and its counsel to obtain and
18 maintain copies of such acknowledgements and to provide such acknowledgements to the
19 opposing Parties’ outside attorneys of record within 5 days of the date on which “confidential
20 information” is disclosed to such individual.

21 **9. Use Of “Confidential Information” In Conduct Of This Action**

22 a. “Confidential information” may be used by the attorneys of record in good faith
23 in conducting discovery, including depositions, provided that the “confidential information” is
24 protected pursuant to the terms and conditions of this Protective Order.

25 b. During the course of any deposition, upon any inquiry with regard to the content of a
26 document marked CONFIDENTIAL or HIGHLY CONFIDENTIAL – ATTORNEY’S EYES
27 ONLY, or when counsel for a person (Party or nonparty) deems in good faith that the answer to a
28 question may result in the disclosure of “confidential information” within the meaning of this
Order, counsel for the person whose information is involved, at his or her option, in lieu of
taking other steps available in such situation, may direct that the transcription of the questions
and answers be marked as CONFIDENTIAL or HIGHLY CONFIDENTIAL – ATTORNEY’S
EYES ONLY. When such a direction has been given, the disclosure of the testimony shall be
limited in the manner specified in Paragraphs 6-8 of this Protective Order, and the information
contained therein shall not be used for any purpose other than as provided in this Order. Counsel
for the person whose “confidential information” is involved may also request that all persons

1 other than the reporter, counsel, and individuals authorized under Paragraphs 6-8 of this
2 Protective Order leave the deposition room during the confidential portion of the deposition. The
3 failure of such other persons to comply with a request to leave the deposition shall constitute
4 substantial justification for counsel to advise the witness that he or she need not answer the
5 question.

6 c. Notwithstanding the Parties' designation of "confidential information," any court
7 hearing which refers to or describes "confidential information" shall in the Court's discretion be
8 held in open court with records unsealed, unless there is a specific showing under law that
9 confidentiality is required. The disclosing Party has the option to request that the proceeding be
10 conducted *in camera*, out of the presence of all unqualified persons, and that any transcript
11 relating thereto, subject to the Court's approval, be designated as confidential.

12 d. All information designated as "confidential information" which is filed or lodged with
13 the Court shall be filed or lodged in sealed envelopes on which shall be affixed a copy of the
14 cover page of the document contained therein. The cover page shall include the words
15 CONFIDENTIAL UNDER PROTECTIVE ORDER or HIGHLY CONFIDENTIAL UNDER
16 PROTECTIVE ORDER — ATTORNEY'S EYES ONLY, as appropriate, per Civ. L.R. 79-5.

17 ~~e. If the court clerk shall refuse to lodge or file a sealed pleading or memorandum,
18 the Party attempting to file or lodge the pleading or memorandum shall not be prejudiced from
19 refilling an unsealed version of the pleading or memorandum as soon as reasonably practicable,
20 and seeking to have such pleading or memorandum sealed through a motion. Should a Party fail
21 to file or lodge any such information, in accordance with this Protective Order, any Party who in
22 good faith believes that designation and filing under seal is required may do so within ten (10)
23 days of learning of the defective filing or lodging. Notice of such designation shall be given to all
24 parties.~~

25 10. Party's Own Information

26 The restrictions on the use of "confidential information" established by this Protective
27 Order are applicable only to the use of "confidential information" received by a Party from
28 another Party or from a nonparty. A Party is free to do whatever it desires with its own
"confidential information."

29 11. Disclosure To Author, Addressee, Recipient

30 Nothing in this Protective Order shall prohibit a Party, or its counsel, from disclosing a
31 document which contains "confidential information" to the person who is an author or addressee
32 of such document, or who received such document during the time period of the occurrences
33 alleged in the pleadings in this action. No person to whom disclosure is made pursuant to this
34 provision shall make or be given a copy of the disclosed document to retain. Such person shall be
35 permitted only to inspect a copy of the disclosed document and prepare handwritten notes; no

1 other method of preparing notes is permitted. All notes shall be retained at all times by counsel
2 for the disclosing Party.

3 **12. Rendering Advice To Clients**

4 Nothing in this Protective Order shall bar or otherwise restrict any attorney from
5 rendering advice to his or her client with respect to this litigation and, in the course of rendering
6 produced or exchanged; provided however, that in rendering such advice and in otherwise
7 communicating with his or her client, the attorney shall not disclose the contents of any
8 “confidential information” produced by another Party or person if that disclosure would be
9 contrary to the terms of this Protective Order. Further, nothing in this Protective Order prevents
any outside attorney from advising his or her clients regarding general strategy so long as the
attorney does not disclose the contents of any “confidential information” in a manner contrary to
the terms of this Protective Order.

10 **13. No Waiver**

11 Other than as specified in this Protective Order, the taking of or the failure to take any
12 action to enforce the provisions of this Protective Order, or the failure to object to any
13 designation or any such action or omission, shall not constitute a waiver of any right to seek and
14 obtain protection or relief in this action or any other action, such right including, but not limited
15 to, the right to claim that any information is or is not proprietary to any Party, is or is not entitled
16 to particular protection, or that such information does or does not embody the trade secrets of
17 any Party. The procedures set forth in this Protective Order shall not affect the rights of Parties to
18 object to discovery on grounds other than those related to confidentiality, trade secret, or
19 proprietary information claims, nor shall it relieve a Party from the duty to respond to discovery
20 requests under the Federal Rules of Civil Procedure.

18 **14. No Probative Value**

19 a. This Protective Order shall not abrogate or diminish any contractual, statutory, or other
20 legal obligation or right of any Party or person with respect to any “confidential
21 information.”

22 b. The fact that information is designated “confidential information” under this
23 Protective Order shall not be deemed to be determinative of what a trier of fact may determine to
24 be confidential or proprietary. Provided that a Party complies with the procedures outlined in this
25 Protective Order, this Order shall be without prejudice to the right of any Party to bring before
the Court the questions of:

26 (a) whether any particular material is or is not confidential;

1 (b) whether any particular information or material is or is not entitled to a greater
2 or lesser degree of protection than provided hereunder; or

3 (c) whether any particular information or material is or is
4 not relevant or otherwise admissible under the Federal Rules of Evidence in this case.

5 c. Absent a stipulation of all Parties, the fact that documents or information have
6 been designated CONFIDENTIAL or HIGHLY CONFIDENTIAL – ATTORNEY’S EYES
7 ONLY
8 pursuant to this Order shall not be admissible during the trial of this action, nor shall the jury be
9 advised of such designation. The fact that any documents or information are disclosed, used, or
10 produced in discovery or trial herein shall not be deemed admissible, nor offered in any action or
11 proceeding before any court, agency, or tribunal as evidence of or concerning whether such
12 information is confidential or proprietary.
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1 **15. Termination Of Litigation**

2 Within thirty (30) days of the final disposition of the above-captioned case, whether by
3 Judgment and exhaustion of all appeals, or by settlement, the attorneys of record:

4 a. shall destroy or return to the disclosing party, or its attorney of record, the “confidential
5 information” in their possession, custody, or control or in the possession, custody or control of
6 their staff;

7 b. shall insure that all the “confidential information” in the possession, custody, or control
8 of their experts is destroyed or returned to the disclosing Party or person, or its attorney of
9 record;

10 c. shall destroy all notes, memoranda, or other documents which contain excerpts from
11 any of the “confidential information;” and

12 d. shall consent to the Court’s destruction of such “confidential information,” and if the
13 Court is not willing to destroy such “confidential information,” then withdraw from the Court all
14 “confidential information” filed, lodged, or otherwise delivered to the Court under seal pursuant
15 to Paragraph 9 of this Order.

16 Notwithstanding any of the foregoing, any Party may retain copies of any material filed
17 with the Court.

18 **16. Enforcement Of This Protective Order**

19 This Protective Order shall survive the final conclusion of the action and the Court shall
20 have jurisdiction to enforce this Order beyond the conclusion of this action.

21 **17. Modification Of This Protective Order**

22 In the event any Party hereto seeks a court order that in any way seeks to vary the terms
23 of this Protective Order, said Party shall make such request in the form of a written stipulation,
24 or noticed motion to all Parties that must be served and filed in accordance with local court rules.

25 **18. Multiple Copies**

26 This Protective Order may be executed in multiple counterparts.

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IT IS SO STIPULATED, THROUGH COUNSEL OF RECORD.

DATED: February 4, 2008


 /s/ Brian A.E. Smith
Brian A.E. Smith

DATED: February 4, 2008

 /s/ Elizabeth Tedesco
Elizabeth A. Tedesco

PURSUANT TO STIPULATION, IT IS SO ORDERED.

DATED: _____



Susan Illston
United States District Court Judge

1 HENRY C. BUNSOW (State Bar No. 60707)

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8 Attorneys for Plaintiff

ACCO BRANDS, INC. d/b/a

9 KENSINGTON TECHNOLOGY GROUP

10

11

12

UNITED STATES DISTRICT COURT

13

FOR THE NORTHERN DISTRICT OF CALIFORNIA

14

15 ACCO BRANDS, INC., d/b/a

16 KENSINGTON TECHNOLOGY GROUP

17

Plaintiff,

Case No. CV 04-03526 SI

18

vs.

**DECLARATION REGARDING RECEIPT
OF CONFIDENTIAL INFORMATION**

19

20 PC GUARDIAN ANTI-THEFT PRODUCTS,
INC. and FELLOWES, INC.,

The Honorable Susan Illston

21

Defendants.

22

23 I, _____, declare as follows:

24 1. I have read the attached Protective Order regarding “confidential information” entered
25 in this matter and under its contents. I agree to obey by its terms in all respects.

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27

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1 2. I understand that unauthorized disclosure of documents and information designated as
2 CONFIDENTIAL or CONTIENTIAL – ATTORNEY’S EYES ONLY may constitute contempt of
3 Court.

4 3. I consent to the exercise of personal jurisdiction by the United States District Court for
5 the Northern District of California for the purposes of enforcing the Protective Order, including
6 without limitation, any contempt of court proceeding.

7 4. I affirm that (circle one): [I am] [I am not] otherwise employed in any capacity by any
8 of the parties (including their affiliates, predecessors-in-interest, or successors-in-interest or their
9 respective counsel.

10 I declare under penalty of perjury, pursuant to 28 U.S.C. § 1746, that the foregoing is true and
11 correct.

12 DATED:

13 _____
Signature

14 _____
Name

15 _____
Company

16 _____
Street Address

17 _____
City/State/Zip

18 _____
Phone Number