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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

HERTZ EQUIPMENT RENTAL COMPANY, a
Delaware corporation,

Plaintiff,

v.

RAMON USEDA, FRED KICENSKI, and DOES
1 through 20,

Defendants.

Case No.: 3:10-cv-4953-WHA

**STIPULATED PERMANENT INJUNCTION
AS TO DEFENDANT FRED KICENSKI;
~~PROPOSED~~ ORDER**

Date of Filing: November 2, 2010
Trial Date: None set

1 Pursuant to Local Rules 6-2 and 7-12, and Fed. R. Civ. P. 65(d), Plaintiff Hertz Equipment
2 Rental Corporation (“HERC”) and Defendant Fred Kicenski, by and through their respective counsel,
3 hereby stipulate and request that the Court enter an order as follows:

4 WHEREAS, on November 9, 2010, the Court entered the Order Extending Temporary
5 Restraining Order, Allowing Limited Discovery, and Rescheduling Preliminary Injunction Hearing
6 (the “November 9, 2010 Order”), the terms of which were stipulated to by HERC and Kicenski;

7 WHEREAS, Mr. Kicenski’s deposition was taken on November 12, 2010, and the depositions
8 of three HERC employees were taken on November 17, 2010;

9 WHEREAS, Mr. Kicenski and HERC now wish to resolve this matter by, among other things,
10 having the Court enter a permanent injunction against Mr. Kicenski;

11 WHEREAS, Mr. Kicenski and HERC also have entered into a Settlement Agreement.

12 NOW, THEREFORE, KICENSKI AND HERC STIPULATE and agree that Defendant Fred
13 Kicenski shall be and hereby is enjoined and restrained from directly or indirectly doing any and all
14 of the following for the period from the Court’s entry of this Stipulated Permanent Injunction until
15 December 31, 2015:

16 1. Using or disclosing his knowledge of HERC employee
17 compensation information, except to the extent his knowledge of an
18 individual HERC employee’s compensation was provided to Kicenski by
19 such individual after Kicenski left HERC on August 10, 2010; and

20 2. Using or disclosing his knowledge of either (i) any price
21 that any HERC customer pays to HERC, or (ii) the requirements and/or
22 business practices of any HERC customer in its dealings with HERC,
23 except to the extent that Kicenski’s knowledge of any such price
24 information or customer information was provided to Kicenski by the
25 HERC customer after Kicenski left HERC on August 10, 2010.

26 KICENSKI AND HERC FURTHER STIPULATE and agree that Defendant Fred Kicenski
27 shall be and hereby is permanently enjoined and restrained from directly or indirectly otherwise
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1 violating the terms of his confidentiality agreement with HERC, entitled Hertz Information Security
2 Statement and Confidentiality Agreement for Hertz Employees and dated September 8, 2005.

3 KICENSKI AND HERC FURTHER STIPULATE and agree that the process for resolving
4 disputes as to whether any of the foregoing terms of this Stipulated Permanent Injunction and Order
5 have been violated shall be governed by Paragraph 4 of the above-referenced Settlement Agreement,
6 which provides:

7 In the event that HERC reasonably suspects Kicenski has violated the Stipulated
8 Permanent Injunction and Order referenced in paragraph 2, above, HERC shall,
9 through its counsel, attempt to meet and confer with Kicenski, before pursuing court
10 action, by notifying Kicenski and his counsel, James E. Sell of Sell Parton Rhoades,
11 750 Lindaro Street, Suite 140, San Rafael, CA 94901, in writing of any suspected
12 violation and invite Kicenski and his counsel to respond. Nothing in this Agreement
13 shall be construed to preclude HERC from pursuing relief in the Court after the
14 expiration of the above-referenced 3-business-day notice and meet-and-confer period.

15 KICENSKI AND HERC FURTHER STIPULATE and agree that the Court shall retain
16 jurisdiction over the enforcement of the terms of the above-referenced Settlement Agreement.*

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18 /// The hearing on HERC's motion for a preliminary injunction against Kicenski that was set for
19 December 2, 2010 is **VACATED**. That motion is **DENIED AS MOOT**.

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28 * The Court will retain jurisdiction over enforcement for a period of three years.

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KICENSKI AND HERC FURTHER AGREE AND STIPULATE that this Stipulated Permanent Injunction and Order shall supersede and take precedence over the Court's November 9, 2010 Order.

IT IS SO STIPULATED.

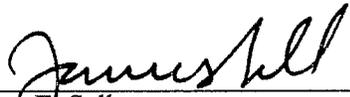
DATED: November 30, 2010

NIXON PEABODY LLP

By: 
Charles M. Dyke
Attorneys for Plaintiff
HERTZ EQUIPMENT RENTAL CORPORATION

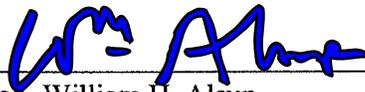
DATED: November 29, 2010

PARTON SELL RHOADES

By: 
James E. Sell
Attorneys for Defendant
FRED KICENSKI

PURSUANT TO STIPULATION, IT IS SO ORDERED.

Dated: November 30, 2010.


Hon. William H. Alsup
United States District Judge