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**KRONENBERGER ROSENFELD, LLP**

Karl S. Kronenberger (Bar No. 226112)  
Jeffrey M. Rosenfeld (Bar No. 222187)  
Liana W. Chen (Bar No. 296965)  
150 Post Street, Suite 520  
San Francisco, CA 94108  
Telephone: (415) 955-1155  
Facsimile: (415) 955-1158  
Karl@KRInternetLaw.com  
Jeff@KRInternetLaw.com  
Liana@KRInternetLaw.com

Attorneys for Plaintiff NostalgiaConventions.com, LLC  
*dba* Colossalcon

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA**

**NOSTALGIACONVENTIONS.COM, LLC,**  
an Ohio limited liability company *dba*  
**COLOSSALCON,**

Plaintiff,

v.

**COLOSSUS CON *aka* COLOSSUS POP  
CULTURE EXPO & COMIC CON *aka*  
COLOSSUS POP EXPO,** a business  
entity of unknown formation;  
**MARINA LUKYANTSEVA *aka* MARINA  
LUKYANTSEVA-HAWORTH,** an individual  
*dba* COLOSSUS CON;  
**DAVIDSON HAWORTH,** an individual *dba*  
COLOSSUS CON,

Defendants.

Case No. 3:17-cv-00695-EMC

**STIPULATED PROTECTIVE ORDER  
& [~~PROPOSED~~] ORDER**





1 The parties to the above-entitled action, to facilitate the exchange of information  
2 and documents that may be subject to confidentiality and privacy laws, hereby stipulate  
3 as follows:

4 **1. PURPOSES AND LIMITATIONS**

5 Disclosure and discovery activity in this action are likely to involve production of  
6 confidential, proprietary, or private information for which special protection from public  
7 disclosure and from use for any purpose other than prosecuting this litigation may be  
8 warranted. Accordingly, the parties hereby stipulate to and petition the court to enter the  
9 following Stipulated Protective Order. The parties acknowledge that this Order does not  
10 confer blanket protections on all disclosures or responses to discovery and that the  
11 protection it affords from public disclosure and use extends only to the limited information  
12 or items that are entitled to confidential treatment under the applicable legal principles.  
13 The parties further acknowledge, as set forth in Section 12.3, below, that this Stipulated  
14 Protective Order does not entitle them to file confidential information under seal; Civil  
15 Local Rule 79-5 sets forth the procedures that must be followed and the standards that  
16 will be applied when a party seeks permission from the court to file material under seal.  
17 This Stipulated Protective Order is fully binding as an agreement between the parties  
18 regardless of whether the Court enters a formal Order.

19 **2. DEFINITIONS**

20 2.1 Challenging Party: a Party or Non-Party that challenges the designation of  
21 information or items under this Order.

22 2.2 “CONFIDENTIAL” Information or Items: information (regardless of how it is  
23 generated, stored or maintained) or tangible things that qualify for protection under  
24 Federal Rule of Civil Procedure 26(c).

25 2.3 Counsel (without qualifier): Outside Counsel of Record and House Counsel  
26 (as well as their support staff) as well as pro se parties.

27 2.4 Designating Party: a Party or Non-Party that designates information or  
28 items that it produces in disclosures or in responses to discovery as “CONFIDENTIAL.”



1           2.5    Disclosure or Discovery Material: all items or information, regardless of the  
2 medium or manner in which it is generated, stored, or maintained (including, among  
3 other things, testimony, transcripts, and tangible things), that are produced or generated  
4 in disclosures or responses to discovery in this matter.

5           2.6    Expert: a person with specialized knowledge or experience in a matter  
6 pertinent to the litigation who has been retained by a Party or its counsel to serve as an  
7 expert witness or as a consultant in this action.

8           2.7    House Counsel: attorneys who are employees of a party to this action.  
9 House Counsel does not include Outside Counsel of Record or any other outside  
10 counsel.

11          2.8    Non-Party: any natural person, partnership, corporation, association, or  
12 other legal entity not named as a Party to this action.

13          2.9    Outside Counsel of Record: attorneys who are not employees of a party to  
14 this action but are retained to represent or advise a party to this action and have  
15 appeared in this action on behalf of that party or are affiliated with a law firm which has  
16 appeared on behalf of that party as well as pro se parties.

17          2.10 Party: any party to this action, including all of its officers, directors,  
18 employees, consultants, retained experts, and Outside Counsel of Record (and their  
19 support staffs).

20          2.11 Producing Party: a Party or Non-Party that produces Disclosure or  
21 Discovery Material in this action.

22          2.12 Professional Vendors: persons or entities that provide litigation support  
23 services (e.g., photocopying, videotaping, translating, preparing exhibits or  
24 demonstrations, and organizing, storing, or retrieving data in any form or medium) and  
25 their employees and subcontractors.

26          2.13 Protected Material: any Disclosure or Discovery Material that is designated  
27 as "CONFIDENTIAL."

28          2.14 Receiving Party: a Party that receives Disclosure or Discovery Material



1 from a Producing Party.

2 **3. SCOPE**

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

17 **4. DURATION**

18 This Stipulated Protective Order is fully binding as an agreement between the  
19 parties regardless of whether the Court enters a formal Order. Even after final disposition  
20 of this litigation, the confidentiality obligations imposed by this Order shall remain in  
21 effect until a Designating Party agrees otherwise in writing or a court order otherwise  
22 directs. Final disposition shall be deemed to be the later of (1) dismissal of all claims and  
23 defenses in this action, with or without prejudice; and (2) final judgment herein after the  
24 completion and exhaustion of all appeals, rehearings, remands, trials, or reviews of this  
25 action, including the time limits for filing any motions or applications for extension of time  
26 pursuant to applicable law.

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1 **5. DESIGNATING PROTECTED MATERIAL**

2 5.1 Exercise of Restraint and Care in Designating Material for Protection.

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

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

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

18 5.2 Manner and Timing of Designations.

19 Except as otherwise provided in this Order (see, e.g., second paragraph of  
20 section 5.2(a) below), or as otherwise stipulated or ordered, Disclosure or Discovery  
21 Material that qualifies for protection under this Order must be clearly so designated  
22 before the material is disclosed or produced.

23 Designation in conformity with this Order requires:

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



1 appropriate markings in the margins).

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

13 (b) For testimony given in deposition or in other pretrial or trial proceedings, that  
14 the Designating Party identify on the record, before the close of the deposition, hearing,  
15 or other proceeding, all protected testimony.

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

### 22 5.3 Inadvertent Failures to Designate.

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

28 //



1 **6. CHALLENGING CONFIDENTIALITY DESIGNATIONS**

2 6.1 Timing of Challenges.

3 Any Party or Non-Party may challenge a designation of confidentiality at any time.  
4 Unless a prompt challenge to a Designating Party’s confidentiality designation is  
5 necessary to avoid foreseeable, substantial unfairness, unnecessary economic burdens,  
6 or a significant disruption or delay of the litigation, a Party does not waive its right to  
7 challenge a confidentiality designation by electing not to mount a challenge promptly  
8 after the original designation is disclosed.

9 6.2 Meet and Confer.

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

25 6.3 Judicial Intervention.

26 If the Parties cannot resolve a challenge without court intervention, the  
27 Designating Party shall file and serve a motion to retain confidentiality under Civil Local  
28 Rule 7 (and in compliance with Civil Local Rule 79-5, if applicable) within 21 days of the





1 initial notice of challenge or within 14 days of the parties agreeing that the meet and  
2 confer process will not resolve their dispute, whichever is earlier. Each such motion must  
3 be accompanied by a competent declaration affirming that the movant has complied with  
4 the meet and confer requirements imposed in the preceding paragraph. Failure by the  
5 Designating Party to make such a motion including the required declaration within 21  
6 days (or 14 days, if applicable) shall automatically waive the confidentiality designation  
7 for each challenged designation. In addition, the Challenging Party may file a motion  
8 challenging a confidentiality designation at any time if there is good cause for doing so,  
9 including a challenge to the designation of a deposition transcript or any portions thereof.  
10 Any motion brought pursuant to this provision must be accompanied by a competent  
11 declaration affirming that the movant has complied with the meet and confer  
12 requirements imposed by the preceding paragraph.

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

## 21 **7. ACCESS TO AND USE OF PROTECTED MATERIAL**

### 22 7.1 Basic Principles.

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





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

4 7.2 Disclosure of “CONFIDENTIAL” Information or Items.

5 Unless otherwise ordered by the court or permitted in writing by the Designating  
6 Party, a Receiving Party may disclose any information or item designated  
7 “CONFIDENTIAL” only to:

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

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

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

18 (d) the court and its personnel;

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

23 (f) during their depositions, witnesses in the action to whom disclosure is  
24 reasonably necessary and who have signed the “Acknowledgment and Agreement to Be  
25 Bound” (Exhibit A), unless otherwise agreed by the Designating Party or ordered by the  
26 court. Pages of transcribed deposition testimony or exhibits to depositions that reveal  
27 Protected Material must be separately bound by the court reporter and may not be  
28 disclosed to anyone except as permitted under this Stipulated Protective Order; and



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

3 **8. PROTECTED MATERIAL SUBPOENAED OR ORDERED PRODUCED IN**  
4 **OTHER LITIGATION**

5 If a Party is served with a subpoena or a court order issued in other litigation that  
6 compels disclosure of any information or items designated in this action as  
7 “CONFIDENTIAL,” that Party must:

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

10 (b) promptly notify in writing the party who caused the subpoena or order to issue  
11 in the other litigation that some or all of the material covered by the subpoena or order is  
12 subject to this Protective Order. Such notification shall include a copy of this Stipulated  
13 Protective Order; and

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

16 If the Designating Party timely seeks a protective order, the Party served with the  
17 subpoena or court order shall not produce any information designated in this action as  
18 “CONFIDENTIAL” before a determination by the court from which the subpoena or order  
19 issued, unless the Party has obtained the Designating Party’s permission. The  
20 Designating Party shall bear the burden and expense of seeking protection in that court  
21 of its confidential material – and nothing in these provisions should be construed as  
22 authorizing or encouraging a Receiving Party in this action to disobey a lawful directive  
23 from another court.

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

26 (a) The terms of this Order are applicable to information produced by a Non-Party  
27 in this action and designated as “CONFIDENTIAL.” Such information produced by Non-  
28 Parties in connection with this litigation is protected by the remedies and relief provided



1 by this Order. Nothing in these provisions should be construed as prohibiting a Non-  
2 Party from seeking additional protections.

3 (b) In the event that a Party is required, by a valid discovery request, to produce a  
4 Non-Party's confidential information in its possession, and the Party is subject to an  
5 agreement with the Non-Party not to produce the Non-Party's confidential information,  
6 then the Party shall:

7 (1) promptly notify in writing the Requesting Party and the Non-Party that  
8 some or all of the information requested is subject to a confidentiality agreement with a  
9 Non-Party;

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

13 (3) make the information requested available for inspection by the Non-  
14 Party.

15 (c) If the Non-Party fails to object or seek a protective order from this court within  
16 14 days of receiving the notice and accompanying information, the Receiving Party may  
17 produce the Non-Party's confidential information responsive to the discovery request. If  
18 the Non-Party timely seeks a protective order, the Receiving Party shall not produce any  
19 information in its possession or control that is subject to the confidentiality agreement  
20 with the Non-Party before a determination by the court. Absent a court order to the  
21 contrary, the Non-Party shall bear the burden and expense of seeking protection in this  
22 court of its Protected Material.

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

24 If a Receiving Party learns that, by inadvertence or otherwise, it has disclosed  
25 Protected Material to any person or in any circumstance not authorized under this  
26 Stipulated Protective Order, the Receiving Party must immediately (a) notify in writing the  
27 Designating Party of the unauthorized disclosures, (b) use its best efforts to retrieve all  
28 unauthorized copies of the Protected Material, (c) inform the person or persons to whom



1 unauthorized disclosures were made of all the terms of this Order, and (d) request such  
2 person or persons to execute the “Acknowledgment and Agreement to Be Bound” that is  
3 attached hereto as Exhibit A.

#### 4 **11. INADVERTENT PRODUCTION OF PRIVILEGED OR OTHERWISE** 5 **PROTECTED MATERIAL**

6 When a Producing Party gives notice to Receiving Parties that certain  
7 inadvertently produced material is subject to a claim of privilege or other protection, the  
8 obligations of the Receiving Parties are those set forth in Federal Rule of Civil Procedure  
9 26(b)(5)(B). This provision is not intended to modify whatever procedure may be  
10 established in an e-discovery order that provides for production without prior privilege  
11 review. Pursuant to Federal Rule of Evidence 502(d) and (e), insofar as the parties reach  
12 an agreement on the effect of disclosure of a communication or information covered by  
13 the attorney-client privilege or work product protection, the parties may incorporate their  
14 agreement in the stipulated protective order submitted to the court.

#### 15 **12. MISCELLANEOUS**

##### 16 12.1 Right to Further Relief.

17 Nothing in this Order abridges the right of any person to seek its modification by  
18 the court in the future.

##### 19 12.2 Right to Assert Other Objections.

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

##### 25 12.3 Filing Protected Material.

26 Without written permission from the Designating Party or a court order secured  
27 after appropriate notice to all interested persons, a Party may not file in the public record  
28 in this action any Protected Material. A Party that seeks to file under seal any Protected

1 Material must comply with Civil Local Rule 79-5. Protected Material may only be filed  
2 under seal pursuant to a court order authorizing the sealing of the specific Protected  
3 Material at issue. Pursuant to Civil Local Rule 79-5, a sealing order will issue only upon a  
4 request establishing that the Protected Material at issue is privileged, protectable as a  
5 trade secret, or otherwise entitled to protection under the law. If a Receiving Party's  
6 request to file Protected Material under seal pursuant to Civil Local Rule 79-5(d) is  
7 denied by the court, then the Receiving Party may file the information in the public record  
8 pursuant to Civil Local Rule 79-5(e) unless otherwise instructed by the court.

9 **13. FINAL DISPOSITION**

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

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**IT IS SO STIPULATED.**

Dated: July 18, 2017

**KRONENBERGER ROSENFELD, LLP**

By: s/Liana W. Chen  
Liana W. Chen

Attorneys for Plaintiff

Dated: July 18, 2017

**DAVIDSON HAWORTH**

By: s/Davidson Haworth

Defendant Pro Per

Dated: July 18, 2017

**MARINA LUKYANTSEVA**

By: s/Marina Lukyantseva

Defendant Pro Per

**ATTESTATION OF CONCURRENCE IN FILING**

Pursuant to Local Rule 5-1(i)(3), the filer hereby attests that concurrence in the filing of this document has been obtained from each of the other signatories, which shall serve in lieu of their signatures on the document.

s/Liana W. Chen  
Liana W. Chen

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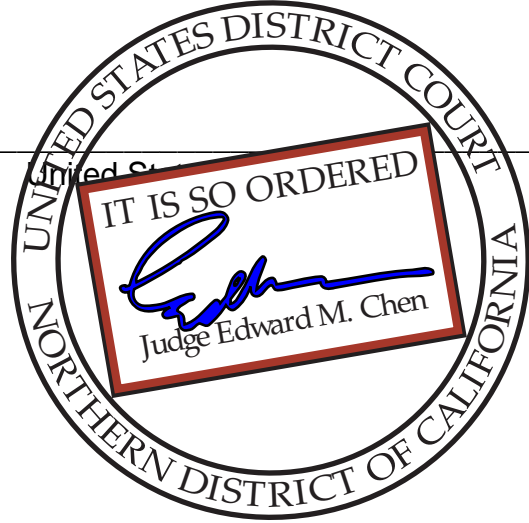
**[PROPOSED] ORDER**

Pursuant to the Parties' Stipulation and for good cause appearing,

**IT IS HEREBY ORDERED** that the Parties' Stipulated Protective Order is adopted as an Order of this Court.

**IT IS SO ORDERED.**

DATED: July 19, 2017







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**EXHIBIT A**

**ACKNOWLEDGMENT AND AGREEMENT TO BE BOUND**

I, \_\_\_\_\_ [print or type full name], of  
\_\_\_\_\_ [print or type full address], declare under  
penalty of perjury that I have read in its entirety and understand the Stipulated Protective  
Order that was issued by the United States District Court for the Northern District of  
California on \_\_\_\_\_ [date] in the case of *NostalgiaConventions v. Colossus*  
*Con, et al.*, Case No. 3:17-cv-00695-EMC.

I agree to comply with and to be bound by all the terms of this Stipulated Protective  
Order and I understand and acknowledge that failure to so comply could expose me to  
sanctions and punishment in the nature of contempt. I solemnly promise that I will not  
disclose in any manner any information or item that is subject to this Stipulated Protective  
Order to any person or entity except in strict compliance with the provisions of this Order.

I further agree to submit to the jurisdiction of the United States District Court for the  
Northern District of California for the purpose of enforcing the terms of this Stipulated  
Protective Order, even if such enforcement proceedings occur after termination of this  
action.

I hereby appoint \_\_\_\_\_ [print or type full name] of  
\_\_\_\_\_ [print or type full address and  
telephone number] as my California agent for service of process in connection with this  
action or any proceedings related to enforcement of this Stipulated Protective Order.

Date: \_\_\_\_\_  
City and State Where Sworn and Signed: \_\_\_\_\_  
Printed Name: \_\_\_\_\_  
Signature: \_\_\_\_\_