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

**CELLSPIN SOFT, INC.,**  
Plaintiff,  
**v.**  
**CANON U.S.A., INC.,**  
Defendant.

**CASE NO. 17-cv-05938-YGR**  
**STIPULATED PROTECTIVE ORDER**  
**\* As Modified by the Court \***

**CELLSPIN SOFT, INC.,**  
Plaintiff,  
**v.**  
**FITBIT, INC.,**  
Defendant.

**CASE NO. 17-cv-05928-YGR**

**CELLSPIN SOFT, INC.,**  
Plaintiff,  
**v.**  
**MOOV, INC.,**  
Defendant.

**CASE NO. 17-cv-05929-YGR**

**CELLSPIN SOFT, INC.,**  
Plaintiff,  
**v.**  
**ADIDAS AMERICA, INC.,**  
Defendant.

**CASE NO. 17-cv-05930-YGR**

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**CELLSPIN SOFT, INC.,**  
Plaintiff,  
**v.**  
**NIKE, INC.,**  
Defendant.

**CASE No. 17-cv-05931-YGR**

**CELLSPIN SOFT, INC.,**  
Plaintiff,  
**v.**  
**UNDER ARMOR, INC.,**  
Defendant.

**CASE No. 17-cv-05932-YGR**

**CELLSPIN SOFT, INC.,**  
Plaintiff,  
**v.**  
**FOSSIL GROUP, INC.,**  
Defendant.

**CASE No. 17-cv-05933-YGR**

**CELLSPIN SOFT, INC.,**  
Plaintiff,  
**v.**  
**GARMIN INTERNATIONAL, INC. ET AL.,**  
Defendant.

**CASE No. 17-cv-05934-YGR**

**CELLSPIN SOFT, INC.,**  
Plaintiff,  
**v.**  
**NIKON AMERICAS, INC. ET AL.,**  
Defendant.

**CASE No. 17-cv-05936-YGR**

1 **CELLSPIN SOFT, INC.,**

2 Plaintiff,

3 v.

4 **GoPRO, INC.,**

5 Defendant.

**CASE NO. 17-cv-05939-YGR**

6 **CELLSPIN SOFT, INC.,**

7 Plaintiff,

8 v.

9 **PANASONIC CORPORATION OF NORTH**  
10 **AMERICA,**

11 Defendant.

**CASE NO. 17-cv-05941-YGR**

12 **CELLSPIN SOFT, INC.,**

13 **PLAINTIFF,**

14 v.

15 **JK IMAGING LTD.,**

16 Defendant.

**CASE NO. 17-cv-06881-YGR**

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21 **1. PURPOSES AND LIMITATIONS**

22 Disclosure and discovery activity in this action are likely to involve production of  
23 confidential, proprietary, or private information for which special protection from public  
24 disclosure and from use for any purpose other than prosecuting this litigation may be  
25 warranted. Accordingly, the parties hereby stipulate to and petition the court to enter the  
26 following Stipulated Protective Order. The parties acknowledge that this Order does not  
27 confer blanket protections on all disclosures or responses to discovery and that the protection  
28 it affords from public disclosure and use extends only to the limited information or items that

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1 are entitled to confidential treatment under the applicable legal principles. The parties further  
2 acknowledge, as set forth in Section 14.4, below, that this Stipulated Protective Order does  
3 not entitle them to file confidential information under seal; Civil Local Rule 79-5 sets forth  
4 the procedures that must be followed and the standards that will be applied when a party  
5 seeks permission from the court to file material under seal.

## 6 2. DEFINITIONS

7 2.1 Challenging Party: a Party or Non-Party that challenges the designation of  
8 information or items under this Order.

9 2.2 “CONFIDENTIAL” Information or Items: information (regardless of how it is  
10 generated, stored or maintained) or tangible things that qualify for protection under Federal  
11 Rule of Civil Procedure 26(c).

12 2.3 Counsel (without qualifier): Outside Counsel of Record and House Counsel (as  
13 well as their support staff).

14 2.4 Designated House Counsel: House Counsel who seek access to  
15 “CONFIDENTIAL” information in this matter.

16 2.5 Designating Party: a Party or Non-Party that designates information or items  
17 that it produces in disclosures or in responses to discovery as “CONFIDENTIAL”,  
18 “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY”, or “HIGHLY  
19 CONFIDENTIAL – SOURCE CODE”.

20 2.6 Disclosure or Discovery Material: all items or information, regardless of the  
21 medium or manner in which it is generated, stored, or maintained (including, among other  
22 things, testimony, transcripts, and tangible things), that are produced or generated in  
23 disclosures or responses to discovery in this matter.

24 2.7 Expert: a person with specialized knowledge or experience in a matter pertinent  
25 to this litigation who (1) has been retained by a Party or its counsel to serve as an expert  
26 witness or as a consultant in this action, (2) is not a past or current employee of a Party or of  
27 a Party’s competitor, and (3) at the time of retention, is not anticipated to become an  
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1 employee of a Party or of a Party's competitor.

2 2.8 "HIGHLY CONFIDENTIAL – ATTORNEYS' EYES ONLY" Information or  
3 Items: extremely sensitive "Confidential Information or Items," disclosure of which to  
4 another Party or Non-Party would create a substantial risk of serious harm that could not be  
5 avoided by less restrictive means.

6 2.9 "HIGHLY CONFIDENTIAL – SOURCE CODE" Information or Items:  
7 extremely sensitive "Confidential Information or Items" representing computer code and  
8 associated comments and revision histories, formulas, engineering specifications, or  
9 schematics that define or otherwise describe in detail the algorithms or structure of software  
10 or hardware designs, disclosure of which to another Party or Non-Party would create a  
11 substantial risk of serious harm that could not be avoided by  
12 less restrictive means.

13 2.10 House Counsel: attorneys who are employees of a party to this action. House  
14 Counsel does not include Outside Counsel of Record or any other outside counsel.

15 2.11 Non-Party: any natural person, partnership, corporation, association, or other  
16 legal entity not named as a Party to this action.

17 2.12 Outside Counsel of Record: attorneys who are not employees of a party to this  
18 action but are retained to represent or advise a party to this action and have appeared in this  
19 action on behalf of that party or are employed by a law firm which has appeared on behalf of  
20 that party.

21 2.13 Party: any party to this action, including all of its officers, directors, employees,  
22 consultants, retained Experts, and Outside Counsel of Record (and their support staffs).

23 2.14 Producing Party: a Party or Non-Party that produces Disclosure or Discovery  
24 Material in this action.

25 2.15 Professional Vendors: persons or entities that provide litigation support services  
26 (e.g., photocopying, videotaping, translating, preparing exhibits or demonstrations, and  
27 organizing, storing, or retrieving data in any form or medium) and their employees and  
28 subcontractors.

1           2.16 Protected Material: any Disclosure or Discovery Material that is designated as  
2 “CONFIDENTIAL,” “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY,” or as  
3 “HIGHLY CONFIDENTIAL – SOURCE CODE.”

4           2.17 Receiving Party: a Party that receives Disclosure or Discovery Material from a  
5 Producing Party.

6           2.18 This Action or This Litigation: the above-captioned case only.

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8 **3. SCOPE**

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

21           For clarity, nothing herein shall affect the right of the Designating Party to disclose to  
22 its officers, directors, employees, attorneys, consultants or Experts, or to any other person, its  
23 own information. Such disclosure shall not waive the protections of this Protective Order and  
24 shall not entitle other Parties or their attorneys to disclose such information in violation of it,  
25 unless by such disclosure of the Designating Party the information becomes public  
26 knowledge. Similarly, the Protective Order shall not preclude a Party from showing its own  
27 information to its officers, directors, employees, attorneys, consultants or Experts, or to any  
28 other person, which information has been filed under seal by another Party.

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1 Any use of Protected Material at trial shall be governed by a separate agreement or  
2 order.

3 4. DURATION

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

11 5. DESIGNATING PROTECTED MATERIAL

12 5.1 Exercise of Restraint and Care in Designating Material for Protection. Each  
13 Party or Non-Party that designates information or items for protection under this Order must  
14 take care to limit any such designation to specific material that qualifies under the  
15 appropriate standards. To the extent it is practical to do so, the Designating Party must  
16 designate for protection only those parts of material, documents, items, or oral or written  
17 communications that qualify – so that other portions of the material, documents, items, or  
18 communications for which protection is not warranted are not swept unjustifiably within the  
19 ambit of this Order.

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

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

28 5.2 Manner and Timing of Designations. Except as otherwise provided in this Order

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1 (see, *e.g.*, second paragraph of section 5.2(a) below), or as otherwise stipulated or ordered,  
2 Disclosure or Discovery Material that qualifies for protection under this Order must be  
3 clearly so designated before the material is disclosed or produced.

4 Designation in conformity with this Order requires:

5 (a) for information in documentary form (*e.g.*, paper or electronic documents,  
6 but excluding transcripts of depositions or other pretrial or trial proceedings), that the  
7 Producing Party affix the legend “CONFIDENTIAL,” “HIGHLY CONFIDENTIAL –  
8 ATTORNEYS’ EYES ONLY,” or “HIGHLY CONFIDENTIAL – SOURCE CODE” to  
9 each page that contains protected material. If only a portion or portions of the material on a  
10 page qualifies for protection, the Producing Party also must clearly identify the protected  
11 portion(s) (*e.g.*, by making appropriate markings in the margins) and must specify, for each  
12 portion, the level of protection being asserted.

13 A Party or Non-Party that makes original documents or materials available for  
14 inspection need not designate them for protection until after the inspecting Party has  
15 indicated which material it would like copied and produced. During the inspection and  
16 before the designation, all of the material made available for inspection shall be deemed  
17 “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY.” After the inspecting Party  
18 has identified the documents it wants copied and produced, the Producing Party must  
19 determine which documents, or portions thereof, qualify for protection under this Order.  
20 Then, before producing the specified documents, the Producing Party must affix the  
21 appropriate legend (“CONFIDENTIAL,” “HIGHLY CONFIDENTIAL – ATTORNEYS’  
22 EYES ONLY” or “HIGHLY CONFIDENTIAL – SOURCE CODE”) to each page that  
23 contains Protected Material. If only a portion or portions of the material on a page qualifies  
24 for protection, the Producing Party also must clearly identify the protected portion(s) (*e.g.*,  
25 by making appropriate markings in the margins) and must specify, for each portion, the level  
26 of protection being asserted.

27 (b) for testimony given in deposition or in other pretrial or trial proceedings,  
28 that the Designating Party identify on the record, before the close of the deposition, hearing,



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

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

19 Transcripts containing Protected Material shall have an obvious legend on the title  
20 page that the transcript contains Protected Material, and the title page shall be followed by a  
21 list of all pages (including line numbers as appropriate) that have been designated as  
22 Protected Material and the level of protection being asserted by the Designating Party. The  
23 Designating Party shall inform the court reporter of these requirements. Any transcript that is  
24 prepared before the expiration of a 21-day period for designation shall be treated during that  
25 period as if it had been designated “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES  
26 ONLY” in its entirety unless otherwise agreed. After the expiration of that period, the  
27 transcript shall be treated only as actually designated.

28 (c) for information produced in some form other than documentary and for any

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1 other tangible items, that the Producing Party affix in a prominent place on the exterior of the  
2 container or containers in which the information or item is stored the legend  
3 “CONFIDENTIAL,” “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY,” or  
4 “HIGHLY CONFIDENTIAL – SOURCE CODE”. If only a portion or portions of the  
5 information or item warrant protection, the Producing Party, to the extent practicable, shall  
6 identify the protected portion(s) and specify the level of protection being asserted.

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

12 **6. CHALLENGING CONFIDENTIALITY DESIGNATIONS**

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

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

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1 change in designation is offered, to explain the basis for the chosen designation. A  
2 Challenging Party may proceed to the next stage of the challenge process only if it has  
3 engaged in this meet and confer process first or establishes that the Designating Party is  
4 unwilling to participate in the meet and confer process in a timely manner.

5       **6.3 Judicial Intervention. If the Parties cannot resolve a challenge without court**  
6 **intervention, the parties shall follow the Court’s Standing Order in Civil Cases**  
7 **regarding Discovery and Discovery Motions. The parties may file a joint letter brief**  
8 **regarding retaining confidentiality within 21 days of the initial notice of challenge or**  
9 **within 14 days of the parties agreeing that the meet and confer process will not resolve**  
10 **their dispute, whichever is earlier. Failure by a Designating Party to file such discovery**  
11 **dispute letter within the applicable 21 or 14 day period (set forth above) with the Court**  
12 **shall automatically waive the confidentiality designation for each challenged**  
13 **designation. If, after submitting a joint letter brief, the Court allows that a motion may**  
14 **be filed, any such motion must be accompanied by a competent declaration affirming**  
15 **that the movant has complied with the meet and confer requirements imposed in the**  
16 **preceding paragraph. The Court, in its discretion, may elect to transfer the discovery**  
17 **matter to a Magistrate Judge.**

18       **In addition, the parties may file a joint letter brief regarding a challenge to a**  
19 **confidentiality designation at any time if there is good cause for doing so, including a**  
20 **challenge to the designation of a deposition transcript or any portions thereof. If, after**  
21 **submitting a joint letter brief, the Court allows that a motion may be filed, any motion**  
22 **brought pursuant to this provision must be accompanied by a competent declaration**  
23 **affirming that the movant has complied with the meet and confer requirements**  
24 **imposed by the preceding paragraph. The Court, in its discretion, may elect to refer**  
25 **the discovery matter to a Magistrate Judge.**

26       **The burden of persuasion in any such challenge proceeding shall be on the**  
27 **Designating Party. Frivolous challenges, and those made for an improper purpose (e.g.,**  
28 **to harass or impose unnecessary expenses and burdens on other parties) may expose**  
**the Challenging Party to sanctions. Unless the Designating Party has waived the**

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1 **confidentiality designation by failing to file a letter brief to retain confidentiality as**  
2 **described above, all parties shall continue to afford the material in question the level of**  
3 **protection to which it is entitled under the Producing Party’s designation until the**  
4 **court rules on the challenge.**

5 7. ACCESS TO AND USE OF PROTECTED MATERIAL

6 7.1 Basic Principles. Absent further Order from the Court, a Receiving Party may  
7 use Protected Material that is disclosed or produced by another Party or by a Non-Party in  
8 connection with this case only for prosecuting, defending, or attempting to settle this  
9 litigation. Such Protected Material may be disclosed only to the categories of persons and  
10 under the conditions described in this Order. When the litigation has been terminated, a  
11 Receiving Party must comply with the provisions of section 15 below (FINAL  
12 DISPOSITION).

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

16 7.2 Disclosure of “CONFIDENTIAL” Information or Items. Unless otherwise  
17 ordered by the court or permitted in writing by the Designating Party, a Receiving Party may  
18 disclose any information or item designated “CONFIDENTIAL” only to:

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

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

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

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1 (d) the court and its personnel;

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

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

11 (g) the author or recipient of a document containing the information, or a  
12 custodian or other person who is shown to have otherwise possessed or knew the  
13 information.

14 7.3 Disclosure of “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY”  
15 and “HIGHLY CONFIDENTIAL – SOURCE CODE” Information or Items. Unless  
16 otherwise ordered by the court or permitted in writing by the Designating Party, a Receiving  
17 Party may disclose any information or item designated “HIGHLY CONFIDENTIAL –  
18 ATTORNEYS’ EYES ONLY” or “HIGHLY CONFIDENTIAL – SOURCE CODE” only to:

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

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

27 (c) the court and its personnel;

28 (d) court reporters and their staff, professional jury or trial consultants, and

1 Professional Vendors to whom disclosure is reasonably necessary for this litigation and who  
2 have signed the “Acknowledgment and Agreement to Be Bound” (Exhibit A); and

3 (e) the author or recipient of a document containing the information, or a  
4 custodian or other person who is shown to have otherwise possessed or knew the  
5 information.

6 7.4 Procedures for Approving or Objecting to Disclosure of “HIGHLY  
7 CONFIDENTIAL – ATTORNEYS’ EYES ONLY” or “HIGHLY CONFIDENTIAL –  
8 SOURCE CODE” Information or Items to Experts.

9 (a)(1) Unless otherwise ordered by the court or agreed to in writing by the  
10 Designating Party, a Party that seeks to disclose to an Expert (as defined in this Order) any  
11 information or item that has been designated “HIGHLY CONFIDENTIAL – ATTORNEYS’  
12 EYES ONLY” or “HIGHLY CONFIDENTIAL – SOURCE CODE” pursuant to paragraph  
13 7.3(c) first must make a written request to the Designating Party that (1) identifies the  
14 general categories of “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY” or  
15 “HIGHLY CONFIDENTIAL – SOURCE CODE” information that the Receiving Party  
16 seeks permission to disclose to the Expert, (2) sets forth the full name of the Expert and the  
17 city and state of his or her primary residence, (3) attaches a copy of the Expert’s current  
18 resume, (4) identifies the Expert’s current employer(s), (5) identifies each person or entity  
19 from whom the Expert has received compensation or funding for work in his or her areas of  
20 expertise or to whom the Expert has provided professional services, including in connection  
21 with a litigation, at any time during the preceding five years,<sup>1</sup> and (6) identifies (by name and  
22 number of the case, filing date, and location of court) any litigation in connection with which  
23 the Expert has offered expert testimony, including through a declaration, report, or testimony  
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26 <sup>1</sup> If the Expert believes any of this information is subject to a confidentiality obligation to a third-  
27 party, then the Expert should provide whatever information the Expert believes can be disclosed without  
28 violating any confidentiality agreements, and the Party seeking to disclose to the Expert shall be available to  
meet and confer with the Designating Party regarding any such engagement, and can opt to designate  
confidential aspects of the disclosure as Protected Material under this Protective Order. However, nothing  
herein shall require an Expert to disclose anything privileged, namely work performed as a consulting expert  
that has not been disclosed in another lawsuit.

1 at a deposition or trial, during the preceding five years.<sup>2</sup>

2 (b) A Party that makes a request and provides the information specified in the  
3 preceding respective paragraphs may disclose the subject Protected Material to the identified  
4 Expert unless, within 14 days of delivering the request, the Party receives a written objection  
5 from the Designating Party. Any such objection must set forth in detail the grounds on which  
6 it is based. There shall be no disclosure of Protected Material to such individual pending  
7 resolution of the objection.

8 (c) A Party that receives a timely written objection must meet and confer with  
9 the Designating Party (through direct voice to voice dialogue) to try to resolve the matter by  
10 agreement within seven days of the written objection. If no agreement is reached, the Party  
11 seeking to make the disclosure to the Expert may file a motion as provided in Civil Local  
12 Rule 7 (and in compliance with Civil Local Rule 79-5, if applicable) seeking permission  
13 from the court to do so. Any such motion must describe the circumstances with specificity,  
14 set forth in detail the reasons why the disclosure to the Expert is reasonably necessary, assess  
15 the risk of harm that the disclosure would entail, and suggest any additional means that could  
16 be used to reduce that risk. In addition, any such motion must be accompanied by a  
17 competent declaration describing the parties' efforts to resolve the matter by agreement (*i.e.*,  
18 the extent and the content of the meet and confer discussions) and setting forth the reasons  
19 advanced by the Designating Party for its refusal to approve the disclosure.

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

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26 <sup>2</sup> If, after being cleared to view Protected Material, an Expert intends to perform work or consult for  
27 an entity reasonably believed in good faith by the Expert to be a competitor of a Producing Party, the Expert  
28 must promptly disclose this information to counsel who retained the Expert in this Action. Counsel must  
then promptly disclose in writing to Producing Party the name, address of the competitor and a description  
of the subject matter of the anticipated work and cooperate with opposing counsel to promptly raise the issue  
with the Court if there is an objection.

1 8. PROSECUTION BAR

2 Absent written consent from the Producing Party, any individual employed by, or  
3 related to, or representing the Plaintiff, who receives access to another Party’s  
4 “CONFIDENTIAL,” “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY” or  
5 “HIGHLY CONFIDENTIAL – SOURCE CODE” information pursuant to this Order shall  
6 not be involved in the prosecution of patents or patent applications relating to: 1) wireless-  
7 enabled wearable devices that receive and/or collect data relating to health and/or fitness  
8 from a user; (2) digital media devices, including but not limited to digital cameras and  
9 camcorders, capable of receiving, transferring, and uploading images and/or data to a mobile  
10 phone, a tablet, an internet server or website; or (3) the patents asserted in this Action and  
11 any patent or application claiming priority or otherwise related to the patents asserted in this  
12 Action, before any foreign or domestic agency, including the United States Patent and  
13 Trademark Office (“the Patent Office”). For purposes of this paragraph, “prosecution”  
14 includes directly or indirectly drafting, amending, advising, or otherwise affecting the scope  
15 or maintenance of patent claims. To avoid any doubt, these prohibitions are not intended to  
16 and shall not preclude Counsel and members of its firm from participating in reexamination,  
17 reissue proceedings, *inter partes* review proceedings, or post-grant proceedings on behalf of  
18 a party challenging or defending the validity of any patent, but are intended to preclude  
19 patentee’s Counsel and members of its firm from advising on, consulting on, participating in,  
20 preparing, drafting, editing or otherwise making any claim amendments in reexamination,  
21 reissue proceedings, *inter partes* review proceedings, or post-grant proceedings. This  
22 Prosecution Bar shall begin when access to “CONFIDENTIAL,” “HIGHLY  
23 CONFIDENTIAL – ATTORNEYS’ EYES ONLY” or “HIGHLY CONFIDENTIAL –  
24 SOURCE CODE” information is first received by the affected individual and shall end two  
25 (2) years after final termination of this Action.

26 9. SOURCE CODE

27 (a) To the extent production of source code becomes necessary in this case, a  
28 Producing Party may designate source code as “HIGHLY CONFIDENTIAL - SOURCE

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1 CODE” if it comprises or includes confidential, proprietary or trade secret source code.  
2 Production or designation of HIGHLY CONFIDENTIAL - SOURCE CODE shall not be  
3 construed as a representation or admission by a party that HIGHLY CONFIDENTIAL -  
4 SOURCE CODE is properly discoverable in this action, nor does the inclusion of HIGHLY  
5 CONFIDENTIAL - SOURCE CODE as part of this agreement obligate any party to produce  
6 HIGHLY CONFIDENTIAL - SOURCE CODE. For absence of doubt, the Producing Party  
7 need not produce executable or native code absent agreement by the Parties or by further  
8 Court Order, provided that the corresponding source code is made available.

9 (b) Protected Material designated as “HIGHLY CONFIDENTIAL –  
10 SOURCE CODE” shall be subject to all of the protections afforded to “HIGHLY  
11 CONFIDENTIAL – ATTORNEYS’ EYES ONLY” information, including the Prosecution  
12 Bar set forth in Paragraph 8, and may be disclosed only to the individuals to whom  
13 “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY” information may be  
14 disclosed, as set forth in Paragraphs 7.3 and 7.4.

15 (c) Any source code produced in discovery shall be made available for  
16 inspection, in a format allowing it to be reasonably reviewed and searched, during normal  
17 business hours (9:00 A.M. to 5:00 P.M. local time), or at other mutually agreeable times, on  
18 ten (10) calendar days written (including email) notice for the first request and three (3)  
19 business days’ written (including email) notice for subsequent requests at an office of the  
20 Producing Party’s counsel, or another mutually agreed upon location. The source code shall  
21 be made available for inspection on a secured computer in a secured room without Internet  
22 access or network access to other computers, and the Receiving Party shall not copy,  
23 remove, or otherwise transfer any portion of the source code onto any recordable media or  
24 recordable device. Recording devices, recordable media, or other electronic devices  
25 (including but not limited to sound recorders, computers, PDAs, landline or cellular  
26 telephones, smartphones, peripheral equipment, cameras, CDs, DVDs, floppy drives, zip  
27 drives, thumb drives, USB memory sticks, portable hard drives, BlackBerry® devices, or  
28 Dictaphones) shall not be permitted inside the secure room containing source code. The

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1 Receiving Party may request a separate “breakout” room where such devices may be used.

2 (d) The Producing Party may visually monitor the activities of the Receiving  
3 Party’s representatives during any source code review, but only to ensure that there is no  
4 unauthorized recording, copying, or transmission of the source code. The Receiving Party  
5 shall maintain a paper log indicating the names of any individuals inspecting the source  
6 code, including dates and times of inspection, and the names of any individuals to whom  
7 paper copies of portions of the source code are provided. This shall be produced upon  
8 request.

9 (e) The Receiving Party may request paper copies of limited portions of  
10 source code that are reasonably necessary for the preparation of court filings, pleadings,  
11 expert reports, or other papers, or for deposition or trial, but shall not request paper copies  
12 for the purposes of reviewing the source code other than electronically as set forth in  
13 paragraph (c) in the first instance. The Producing Party shall have up to three (3) business  
14 days to provide the Receiving Party with the requested paper copies. No more than 20  
15 consecutive pages, 20 lines of code per page, or more than 300 pages total, of source code  
16 for any software release of source code produced by any one Producing Party shall be  
17 printed without prior written approval of the Producing Party, except that if the Receiving  
18 Party believes, in good faith, that further pages are necessary, the parties shall meet and  
19 confer to resolve the issue in good faith without the need for Court intervention. For the  
20 purpose of requesting paper copies of portions of the source code, Plaintiff may identify such  
21 portions by saving them in an electronic portable document format using the virtual printer  
22 that is provided in the source code room. For the avoidance of doubt, a “page” for purposes  
23 of this section will be defined as an 8.5 by 11 inch sheet of paper using 12-point font and a  
24 single-spaced line spacing. The Producing Party shall provide all such source code in paper  
25 form including bates numbers and the label “HIGHLY CONFIDENTIAL - SOURCE  
26 CODE” and will deliver them to Receiving Party within 3 business days of a request to print  
27 unless objected to, any such objection to be addressed in accordance with the procedures  
28 outlined in this paragraph. The Producing Party may challenge the amount of source code

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1 requested in hard copy form pursuant to the dispute resolution procedure and timeframes set  
2 forth in Paragraph 6 whereby the Producing Party is the “Challenging Party” and the  
3 Receiving Party is the “Designating Party” for purposes of dispute resolution. However, no  
4 more than one hundred (100) pages of source code for any software release may be in printed  
5 form in the Receiving Party’s possession at any one time, absent good cause shown. In order  
6 to stay within the one hundred (100) page limit, the Receiving Party must first: (1) securely  
7 destroy and certify to the Producing Party in writing the fact of such destruction; or (2) return  
8 previously printed source code to counsel for the Producing Party. The Receiving Party shall  
9 ensure that any printed copies of source code are stored in a secured locked area in the  
10 offices of Receiving Party’s outside counsel. Receiving Party shall not request Source Code  
11 be printed for the purpose of reviewing blocks of Source Code elsewhere in the first instance,  
12 i.e., as an alternative to reviewing that Source Code electronically on the Source Code  
13 computer in good faith before making a determination on whether printing portions of code  
14 is necessary. If Receiving Party reasonably determines that additional pages of Source Code  
15 printouts beyond the 300 total pages are necessary, or if Producing Party has any objection to  
16 the printing of Source Code for any reason, the parties agree to meet and confer promptly in  
17 good faith. Producing Party shall bear the burden to show good cause why it should not  
18 produce the requested pages or printouts, and shall move the Court for a protective order  
19 within five (5) business days of its objection showing why it should not print the requested  
20 pages or printouts. If, five (5) business days after receipt of Receiving Party’s written notice  
21 of its request for more printing or pages, Producing Party has neither consented, nor brought  
22 a motion for protective order, Producing Party is deemed to waive any objection, and  
23 Receiving Party will be permitted the additional pages or printing.

24 (f) The Receiving Party shall be permitted to make up to five (5) photocopies  
25 of Source Code Material, all of which shall be designated and clearly labeled “HIGHLY  
26 CONFIDENTIAL – SOURCE CODE,” and the Receiving Party shall include the  
27 photocopies on the log discussed in paragraph 9(f) above. For purposes of clarification, and  
28 without limiting the foregoing, the Receiving Party may not create, use, access, or receive

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1 electronic images, photographic images, or any other images, of the source code made from  
2 paper copy; the paper copy may not be converted into an electronic document; and the paper  
3 copy may not be scanned using optical character recognition technology.

4 (g) The Receiving Party's outside counsel and/or Expert shall be entitled to  
5 take handwritten or typed notes relating to the source code on a stand-alone computer, with  
6 MSWord loaded thereon, provided by Producing Party, provided that the Receiving Party  
7 shall not take notes containing any portion of source code files. Such notes shall themselves  
8 thereafter be deemed "HIGHLY CONFIDENTIAL – SOURCE CODE" for all purposes and  
9 provisions herein, except that the Receiving Party's outside counsel and/or Expert may keep  
10 the original of such notes (but such originals shall be subject to all restrictions placed on  
11 copies in the possession of the Receiving Party included within this Protective Order) and the  
12 Receiving Party may load and download working documents and notes using a USB drive to  
13 the provided computer. However, upon good cause, the Receiving Party may challenge the  
14 arrangement.

15 (h) The Receiving Party shall maintain a record of any individual who has  
16 inspected any portion of the source code in electronic or paper form. The Receiving Party  
17 shall maintain all paper copies of any printed portions of the source code in a secured, locked  
18 area. The Receiving Party shall not create any electronic or other images of the paper copies  
19 and shall not convert any of the information contained in the paper copies into any electronic  
20 format. The Receiving Party shall only make additional paper copies if such additional  
21 copies are (1) necessary to prepare court filings, pleadings, or other papers (including a  
22 testifying Expert's expert report), (2) necessary for deposition, or (3) otherwise necessary for  
23 the preparation of its case with the advance written consent of the Producing Party, which  
24 consent shall not be unreasonably withheld. Any paper copies used during a deposition shall  
25 be retrieved by the Producing Party at the end of each day and must not be given to or left  
26 with a court reporter or any other unauthorized individual. The Receiving Party shall provide  
27 at least one (1) business day's notice to the Producing Party before including "HIGHLY  
28 CONFIDENTIAL – SOURCE CODE" material in a Court filing or pleading, or before using

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1 “HIGHLY CONFIDENTIAL – SOURCE CODE” material during a deposition, except for  
2 good cause shown. The Receiving Party shall take all necessary steps to maintain the  
3 confidentiality of “HIGHLY CONFIDENTIAL – SOURCE CODE,” including, but not  
4 limited to, filing such material under seal using at least the following minimum protections  
5 in making the filing: (i) the Receiving Party will make a good faith effort to rely on expert  
6 declarations or other means to describe the relevant feature or functionality of the source  
7 code (including by identifying the corresponding production number(s) and line number(s)  
8 of the reference source code), rather than by copying portions of the source code into a filing,  
9 to the extent possible; (ii) if any portion of source code is included in a filing, the Receiving  
10 Party will copy the minimal amount of source code that is reasonably deemed necessary for  
11 purposes of that filing; (iii) the filing will be made only under seal, and all confidential  
12 information concerning the source code must be redacted or removed in any public versions  
13 of the filed documents; and (iv) the Receiving Party’s communication and/or disclosure of  
14 electronic files or other materials containing any portion of source code in connection with a  
15 filing must at all times be limited solely to individuals who are expressly authorized to view  
16 source code under the provisions of this Protective Order, and all such individuals must be  
17 identified on the log as an inspector of the source code in accordance with this Protective  
18 Order.

19 (i) Source Code material, in whatever form, including as an excerpt or in a  
20 Source Code Document, shall not be transmitted (e.g., by email) or taken outside the  
21 territorial United States without the express prior written consent of the Producing Party;

22 (j) Court reporters and/or videographers shall not retain or be given copies of  
23 any portions of Source Code, all of which shall be maintained by deposing counsel under the  
24 secure conditions required herein. If any portion of Source Code Material or Source Code  
25 Document is used during a deposition, the deposition record will identify the exhibit  
26 containing any Source Code Material by its production numbers only, and those pages of the  
27 deposition transcript containing any HIGHLY CONFIDENTIAL - SOURCE CODE shall be  
28 deemed designated HIGHLY CONFIDENTIAL - SOURCE CODE until further specifically

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1 designated in accordance with this Order. To the extent any portion of Source Code material  
2 is quoted in any document or transcript such as a Source Code document, either the entire  
3 document or transcript will be stamped and treated as HIGHLY CONFIDENTIAL -  
4 SOURCE CODE or those pages containing any HIGHLY CONFIDENTIAL - SOURCE  
5 CODE will be separately bound, designated, and treated as HIGHLY CONFIDENTIAL -  
6 SOURCE CODE.

7 (k) Source Code material may only be transported by Receiving Party at the  
8 direction of a person authorized under this Protective Order to another person authorized  
9 under this Protective Order, on paper or removable electronic media in permitted  
10 circumstances as set forth herein (*e.g.*, a DVD, CD-ROM, or flash memory “stick”) via hand  
11 carry. Source Code material may not be transported or transmitted electronically over a  
12 network of any kind, including a LAN, an intranet, or the Internet, unless as contained in  
13 draft or final versions of any court filings or expert reports provided that it is maintained on a  
14 password-protected computer.

15 (l) The Parties further reserve the right to modification of the above source code  
16 limitations as necessary.

17 10. PROTECTED MATERIAL SUBPOENAED OR ORDERED PRODUCED IN  
18 OTHER LITIGATION

19 If a Party is served with a subpoena or a court order issued in other litigation  
20 that compels disclosure of any information or items designated in this action as  
21 “CONFIDENTIAL,” “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY,” or  
22 “HIGHLY CONFIDENTIAL – SOURCE CODE” that Party must:

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

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

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

3  
4 If the Designating Party timely seeks a protective order, the Party served with  
5 the subpoena or court order shall not produce any information designated in this action as  
6 “CONFIDENTIAL,” “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY,” or  
7 “HIGHLY CONFIDENTIAL – SOURCE CODE” before a determination by the court from  
8 which the subpoena or order issued, unless the Party has obtained the Designating Party’s  
9 permission. The Designating Party shall bear the burden and expense of seeking protection in  
10 that court of its confidential material – and nothing in these provisions should be construed  
11 as authorizing or encouraging a Receiving Party in this action to disobey a lawful directive  
12 from another court.

13 11. 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-  
16 Party in this action and designated as “CONFIDENTIAL,” “HIGHLY CONFIDENTIAL –  
17 ATTORNEYS’ EYES ONLY,” or “HIGHLY CONFIDENTIAL – SOURCE CODE”. Such  
18 information produced by Non-Parties in connection with this litigation is protected by the  
19 remedies and relief provided by this Order. Nothing in these provisions should be construed  
20 as prohibiting a Non-Party from seeking additional protections.

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

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

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

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1 description of the information requested; and

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

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

12 12. UNAUTHORIZED DISCLOSURE OF PROTECTED MATERIAL

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

21 13. INADVERTENT PRODUCTION OF PRIVILEGED OR OTHERWISE  
22 PROTECTED MATERIAL

23 When a Producing Party gives notice to Receiving Parties that certain  
24 inadvertently produced material is subject to a claim of privilege or other protection, the  
25 obligations of the Receiving Parties are those set forth in Federal Rule of Civil Procedure  
26 26(b)(5)(B).

27 The inadvertent or mistaken production of any Disclosure or Discovery Material  
28 by a Producing Party, without the designation required under Section 5 ("DESIGNATING



1 PROTECTED MATERIAL”), above, shall not be deemed a waiver in whole or in part of a  
2 party’s claim of confidentiality or secrecy, either as to the specific discovery produced or as  
3 to any other discovery relating thereto or on the same related subject matter. Documents  
4 containing confidential or secret information inadvertently or unintentionally produced  
5 without being designated as “CONFIDENTIAL,” “HIGHLY CONFIDENTIAL – OUTSIDE  
6 ATTORNEY’S EYES ONLY,” or “HIGHLY CONFIDENTIAL – SOURCE CODE” may  
7 be retroactively designated by notice in writing of the designated class of each document by  
8 bates number or other appropriate identification and shall be treated appropriately from the  
9 date written notice of the designation is provided to the receiving party. Such notice of  
10 retroactive designation shall be made within ten (10) days of discovery by the Producing  
11 Party that inadvertently failed to properly designate the document(s).

12 To the extent that, prior to such notice, the Receiving Party may have disclosed  
13 the document or information to persons other than the persons permitted to receive the  
14 information pursuant to Paragraph 7 above, the Receiving party shall not be deemed to have  
15 violated the Protective Order, but shall make reasonable efforts to retrieve any document or  
16 information promptly from such person and to limit any further disclosure pursuant to this  
17 Protective Order and shall promptly notify the Producing Party in writing of the possible  
18 disclosure to persons other than the persons permitted to receive the information pursuant to  
19 Paragraph 7 above.

20 The production by a Party herein shall not be deemed a waiver of any right by  
21 the Producing Party to object to the admissibility of such document or thing on grounds of  
22 relevance, materiality, privilege, or other valid ground of objection.

23 This provision is not intended to modify whatever procedure may be established  
24 in an e-discovery order that provides for production without prior privilege review. Pursuant  
25 to Federal Rule of Evidence 502(d) and (e), insofar as the parties reach an agreement on the  
26 effect of disclosure of a communication or information covered by the attorney-client  
27 privilege or work product protection, the parties may incorporate their agreement in the  
28 stipulated protective order submitted to the court.

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1 14. MISCELLANEOUS

2 14.1 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 14.2 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  
6 any information or item on any ground not addressed in this Stipulated Protective Order.  
7 Similarly, no Party waives any right to object on any ground to use in evidence of any of the  
8 material covered by this Protective Order.

9 14.3 Export Control. Disclosure of Protected Material shall be subject to all applicable  
10 laws and regulations relating to the export of technical data contained in such Protected  
11 Material, including the release of such technical data to foreign persons or nationals in the  
12 United States or elsewhere. The Producing Party shall be responsible for identifying any  
13 such controlled technical data, and the Receiving Party shall take measures necessary to  
14 ensure compliance.

15 14.4 Filing Protected Material. Without written permission from the Designating  
16 Party or a court order secured after appropriate notice to all interested persons, a Party may  
17 not file in the public record in this action any Protected Material. A Party that seeks to file  
18 under seal any Protected Material must comply with Civil Local Rule 79-5. Protected  
19 Material may only be filed under seal pursuant to a court order authorizing the sealing of the  
20 specific Protected Material at issue. Pursuant to Civil Local Rule 79-5, a sealing order will  
21 issue only upon a request establishing that the Protected Material at issue is privileged,  
22 protectable as a trade secret, or otherwise entitled to protection under the law. If a Receiving  
23 Party's request to file Protected Material under seal pursuant to Civil Local Rule 79-5(e) is  
24 denied by the court, then the Receiving Party may file the Protected Material in the public  
25 record pursuant to Civil Local Rule 79-5(e)(2) unless otherwise instructed by the court.

26 15. FINAL DISPOSITION

27 Within 60 days after the final disposition of this action, as defined in Paragraph 4,  
28 each Receiving Party must return all Protected Material to the Producing Party or destroy


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DATED: February 23, 2018                      /s/ Dalia B. Kothari  
Attorneys for Defendant

PURSUANT TO STIPULATION, IT IS SO ORDERED.

DATED: February 27, 2018                        
YVONNE GONZALEZ ROGERS  
UNITED STATES DISTRICT COURT JUDGE

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IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA  
OAKLAND DIVISION

CELLSPIN SOFT, INC.,

Plaintiff,

v.

FOSSIL GROUP, INC. ET AL,

Defendants.

Case No. 4:17-cv-05933-YGR

**ACKNOWLEDGEMENT AND  
AGREEMENT TO BE BOUND**

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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 \_\_\_\_\_ [**insert formal name of the case  
and the number and initials assigned to it by the court**]. 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.

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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: \_\_\_\_\_  
[printed name]

Signature: \_\_\_\_\_  
[signature]