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13  
14 **UNITED STATES DISTRICT COURT**  
15 **DISTRICT OF NEVADA**

16 CYBERGUN S.A., a French Corporation, and  
FN HERSTAL, S.A., a Belgian Corporation,

17 Plaintiffs,

18 v.

19 JAG PRECISION, a California Corporation,

20 Defendant.  
21

CASE NO. 2:12-cv-00074-KJD-GWF

**JOINT MOTION FOR ENTRY OF  
STIPULATED PROTECTIVE ORDER**

22 Plaintiffs Cybergun S.A. and FN Herstal, S.A. (“Plaintiffs”) and Defendant Jag Precision  
23 (“Defendant”) jointly move this Court for entry of a protective order in this case pursuant to Rule  
24 26(c) of the Federal Rules of Civil Procedure. The parties present the terms of the Stipulated  
25 Protective Order for the Court’s approval and entry in the form attached hereto as Exhibit A. The  
26 parties jointly request that the Court enter the Stipulated Protective Order to aid them in handling  
27 of confidential and proprietary material during the course of this case.

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DATED March 2, 2012.

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**EXHIBIT A**

**EXHIBIT A**

1 UNITED STATES DISTRICT COURT  
2 DISTRICT OF NEVADA

3 CYBERGUN S.A., a French Corporation, and  
4 FN HERSTAL, S.A., a Belgian Corporation,

5 Plaintiffs,

6 v.

7 JAG PRECISION, a California Corporation,

8 Defendant.

CASE NO. 2:12-cv-00074-KJD-GWF

**STIPULATED PROTECTIVE ORDER**

9 WHEREAS, the parties believe certain information to be revealed in the course of this  
10 action is of proprietary and/or confidential nature, including sales data, advertising expenses,  
11 marketing documents, documents relating to the selection of the trademarks at issue, market  
12 research, and channels of trade information;

13 IT IS HEREBY STIPULATED AND AGREED, by and between the parties, through their  
14 attorneys, and ORDERED BY THE COURT that:

15 1. This Agreement applies to all documents, information, electronically stored  
16 information, tangible things, and testimony disclosed during discovery in this action ("Discovery  
17 Material") by a party in this action or by a third party ("Disclosing Party") to another party(ies)  
18 ("Receiving Party") including all portions of transcripts of depositions, exhibits, answers to  
19 interrogatories, responses to requests for admission, documents or things, which are designated by  
20 the Disclosing Party in accordance herewith as containing or comprising confidential or  
21 proprietary information within the meaning of Fed. R. Civ. P. 26(c) (hereinafter "Confidential  
22 Information" and "Highly Confidential Information") as more fully set forth herein.

23 2. "Confidential Information" and "Highly Confidential Information" are intended to  
24 mean information of the type contemplated by Rule 26 of the Federal Rules of Civil Procedure,  
25 and which has not been made public by the Disclosing Party and which a Disclosing Party regards  
26 as proprietary, as more fully defined in Paragraphs 4 and 7.

27 3. Unless the Parties agree in writing otherwise, all Discovery Material containing  
28 Confidential Information or Highly Confidential Information shall be used solely for the

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1 prosecution or defense of this action. Any such Discovery Material designated as Confidential  
2 Information or Highly Confidential Information shall not be used for any business, commercial,  
3 competitive, personal, or other purpose. Confidential Information and Highly Confidential  
4 Information shall not be disseminated to anyone, nor made public, nor used, except as permitted by  
5 this Protective Order or by order of the Court. Nothing in this Agreement shall restrict a  
6 Disclosing Party in any manner with regard to use or disclosure of its own Confidential  
7 Information or Highly Confidential Information.

8 4. A Disclosing Party may designate as "Confidential Information" any Discovery  
9 Material that contains proprietary or other confidential information of either its own or of another  
10 which the Disclosing Party is under a duty to maintain confidential. Confidential Information as  
11 used in this Agreement shall refer to any so designated material and all copies thereof, and shall  
12 also refer to the information contained in such materials. No designation shall be made unless  
13 counsel of record believes in good faith that the designated material is entitled to protection under  
14 Rule 26 of the Federal Rules of Civil Procedure.

15 5. Except as provided in Paragraph 10, all documents containing Confidential  
16 Information shall be marked at the time that copies are produced to a Receiving Party with the  
17 legend "CONFIDENTIAL" stamped or labelled on each page (or on the first page only of a bound  
18 document) in lettering at least ¼" high and in a manner so as not to interfere with the legibility  
19 thereof. Documents must be so designated at the time of delivery to a Receiving Party pursuant to  
20 Fed. R. Civ. P. 33(c).

21 6. Discovery Material designated as Confidential Information shall be maintained in  
22 confidence by the Receiving Party pursuant to the requirements of Paragraph 3 herein, and shall  
23 not be disclosed to any person except:

- 24 a. the Court and its officers, under seal;
- 25 b. lead and local outside counsel of record and employees of such counsel of  
26 record;
- 27 c. in-house counsel and their support staff;
- 28 d. officers and employees of the Receiving Party provided that any such officer

1 or employee of the Receiving Party has signed a declaration in the form of  
2 Exhibit A hereto (copies of which signed declaration shall be provided to  
3 the other parties herein upon request); and

4 e. an independent expert or consultant engaged by counsel or the parties to  
5 assist in this litigation who is not a past or current employee or director of a  
6 party (hereinafter "Expert") provided that such Expert has signed an  
7 undertaking in the form of Exhibit A hereto (copies of which signed  
8 declaration shall be provided to the other parties herein only upon a showing  
9 of good cause).

10 7. A Disclosing Party may designate as "Highly Confidential Information" any  
11 Discovery Material that contains Confidential Information that constitutes trade secret or other  
12 proprietary competitive information that the Disclosing Party believes in good faith should not be  
13 disclosed to non-experts or non-attorneys of the Receiving Party, including, but not limited to,  
14 confidential financial information or other proprietary business or technical information. Highly  
15 Confidential Information shall refer to any so designated material and all copies thereof and shall  
16 also refer to the information contained in such materials. No designation shall be made unless  
17 counsel of record believes in good faith that the designated material is entitled to protection under  
18 Rule 26 of the Federal Rules of Civil Procedure and the standard set forth herein.

19 8. Except as provided in Paragraph 10, all documents containing Highly Confidential  
20 Information shall be marked at the time that copies are produced to a Receiving Party with the  
21 legend "HIGHLY CONFIDENTIAL ATTORNEYS' EYES ONLY" or the legend "HIGHLY  
22 CONFIDENTIAL COUNSEL ONLY" stamped or labelled on each page (or on the first page only  
23 of a bound document) in lettering at least ¼" high and in a manner so as not to interfere with the  
24 legibility thereof. Documents must be so designated at the time of inspection by, or delivery to, a  
25 Receiving Party pursuant to Fed. R. Civ. P. 33(c).

26 9. Discovery Material designated as Highly Confidential Information shall be  
27 maintained in confidence for use by litigation counsel who must have access to such  
28 documentation solely for use in connection with this action and shall not be disclosed to any

1 person except:

- 2 a. the Court and its officers, under seal;
- 3 b. lead and local outside counsel of record and employees of such counsel of
- 4 record;
- 5 c. one (1) in house counsel for each party; and
- 6 d. Experts, provided that each such Expert(s) has signed an undertaking in the
- 7 form of Exhibit A hereto (copies of which signed declaration shall be
- 8 provided to the other parties herein only upon a showing of good cause).

9 10. When producing files and records for inspection, no marking need be made by the

10 Disclosing Party in advance of the inspection. For purposes of the inspection by the Receiving

11 Party, all documents produced shall be considered as "Highly Confidential Information."

12 Thereafter, upon selection of specified documents for copying by the Receiving Party, or should

13 the Disclosing Party copy and produce documents directly without an initial inspection, the

14 Disclosing Party shall mark the documents as provided for in Paragraphs 5 and 8.

15 11. The transcript of any deposition or hearing and all exhibits or attachments shall be

16 considered Highly Confidential Information for 30 days following the date such transcript is

17 available. During that 30-day period, either party may designate the portions of the transcript, and

18 any specific exhibits or attachments, that are to be treated as Confidential Information or Highly

19 Confidential Information, in accordance with this Protective Order. Appropriate stampings or

20 markings should be made during this time. If no such designations are made during the 30-day

21 period, then the entire transcript and exhibits will be considered unprotected.

22 12. A party that seeks to disclose to an Expert any Confidential Information or Highly

23 Confidential Information must first provide written notification to the Disclosing Party that (1) sets

24 forth the full name of the Expert and the city and state of his or her primary residence, (2) attaches

25 a copy of the Expert's current resume /curriculum vitae, and (3) identifies the Expert's current

26 employer(s). Seven calendar days after providing such written notification, such party may

27 thereafter disclose to such Expert any such Confidential Information or Highly Confidential

28 Information in accordance with this Agreement unless the Disclosing Party, within the seven-day

1 period, provides a written objection to the other party including an explanation and grounds for  
2 such objection. Counsel that receives a timely written objection shall promptly confer in good  
3 faith, in person or by telephone, with counsel for the Disclosing Party to reconsider the challenged  
4 designation. If after conferring the parties are unable to reach agreement as to the objection, the  
5 objection is deemed waived unless the objecting party files a motion for a determination by the  
6 Court as to the unresolved objections within seven days after the parties first conferred on the  
7 issue. The objecting party shall have the burden of proving the propriety of the objection.

8 13. Any employee, officer, or Rule 30(b)(6) witness of the Disclosing Party may be  
9 shown a document designated as Confidential Information or Highly Confidential Information by  
10 the Disclosing Party for the purpose of interrogation by the Receiving Party at a deposition or  
11 hearing. Any person who is not a party or officer or employee of a party, but who was the author  
12 or copy recipient of a document designated as Confidential Information or Highly Confidential  
13 Information may be shown Confidential Information or Highly Confidential Information for the  
14 purpose of interrogation of such person at a deposition or hearing.

15 14. Nothing in this Agreement nor acceptance by a party of disclosure of information  
16 pursuant to this Agreement shall constitute or be construed as an acknowledgement or admission  
17 that any Discovery Materials designated by a Disclosing Party as such are in fact Confidential  
18 Information or Highly Confidential Information or entitled to confidential treatment. This  
19 Agreement shall be without prejudice to either party to question or challenge at any time whether  
20 or not any particular information is Confidential Information or Highly Confidential Information.

21 15. Each party agrees that if it designates any Discovery Material as Confidential  
22 Information or Highly Confidential Information, and the Receiving Party objects in writing that the  
23 designation is not warranted or justified as to all or any part of the designated material, then within  
24 14 days of the written objection, the Disclosing Party shall confer in good faith, in person or by  
25 telephone, with the Receiving Party to reconsider the challenged designation. If after conferring  
26 the Receiving and Disclosing Parties are unable to reach agreement as to the challenged  
27 designation, then the objecting party may file a motion for a determination by the Court as to the  
28 unresolved objections and the appropriateness of the challenged designation. If the objecting party



1 does not file a motion challenging the designation within 30 days from the date the Receiving and  
2 Disclosing Parties first confer on the issue (or within 14 days if discovery has closed), and unless  
3 otherwise ordered by the Court, the challenged designation shall stand. The Disclosing Party shall  
4 have the burden of proving the propriety of the challenged designation.

5 16. Nothing in this Agreement shall preclude any Receiving Party, or any other person  
6 who is bound by this Agreement, from utilizing information that was known to or possessed by the  
7 Receiving Party or other person before the Receiving Party or other person became bound by this  
8 Agreement, or which lawfully came into the Receiving Party's or other person's possession outside  
9 of the discovery process in this action. Any such use of such information shall not constitute a  
10 violation of this Agreement. Nevertheless, each Disclosing Party retains the right to pursue any  
11 claim or defense it may have against any Receiving Party or other person arising from such use of  
12 such information. However, if a Disclosing Party disputes the Receiving Party's or other person's  
13 position, it shall object in writing, and shall proceed as set forth in Paragraph 15 hereto. If the  
14 Court determines that, consistent with Fed. R. Civ. P. 26(c) and the provisions of this Protective  
15 Order, the information in question appears to be of a type that should be characterized as  
16 Confidential Information or Highly Confidential Information, then any Receiving Party or other  
17 person claiming that the information has been in the possession of such Receiving Party or other  
18 person or has been in the public domain prior to disclosure of such information through discovery,  
19 shall have the burden of proving such prior or public knowledge or possession.

20 17. To the extent that any discovery is taken of any person who is not a party to this  
21 action ("Third Party"), and in the event such Third Party or any party contends that the discovery  
22 sought involves confidential material, then such Third Party shall be provided a copy of this  
23 Protective Order and given the opportunity to designate information as Confidential Information or  
24 Highly Confidential Information in accordance with the terms of this Protective Order.

25 18. No Confidential Information or Highly Confidential Information designated in this  
26 action shall be filed in the public record of this action except as provided herein or otherwise  
27 pursuant to Court Order.

28 19. If Confidential Information or Highly Confidential Information is disclosed to any

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1 person other than in the manner authorized by this Agreement, the party responsible for the  
2 disclosure must immediately bring all pertinent facts relating to such disclosure to the attention of  
3 all counsel of record and, without prejudice to other rights and remedies of the Disclosing Party,  
4 make every effort to prevent further disclosure by it or by the person who was the recipient of such  
5 information.

6 20. The inadvertent or unintentional failure to designate discovery materials as  
7 Confidential Information or Highly Confidential Information shall not be deemed a waiver in  
8 whole or in part of a Disclosing Party's claim of confidential treatment under the terms of this  
9 Agreement. If a document, transcript, or thing is produced for which the designation Confidential  
10 Information or Highly Confidential Information is lacking but should have appeared, the  
11 Disclosing Party may restrict future disclosure of the document, transcript, or thing in accordance  
12 with this Agreement by notifying the Receiving Party in writing of the change in or addition of  
13 such restrictive designation with respect to the document, transcript, or thing, and providing  
14 substitute copies, with appropriate designations, of each such document, transcript, or thing. The  
15 Receiving Party shall then take reasonable steps to prevent any further disclosure of such newly  
16 designated Confidential Information or Highly Confidential Information, except as permitted by  
17 this Agreement, and shall, within ten (10) business days of receipt of the substitute copies, return  
18 or destroy the originally produced items and all copies.

19 21. Any person in possession of another party's Confidential Information or Highly  
20 Confidential Information who receives a subpoena (or other process) from any person (including  
21 natural persons, corporations, partnership, firms, governmental agencies, departments or bodies,  
22 boards, or associations) that is not a party to this Agreement seeking production or other disclosure  
23 of such Confidential Information or Highly Confidential Information shall, if not otherwise  
24 prohibited by law, give prompt written notice to counsel for the Disclosing Party of such  
25 information, identifying the material sought and enclosing a copy of the subpoena or other process.  
26 Where possible, at least ten (10) business days notice before production or other disclosure shall be  
27 given. In no event shall production or disclosure be made before the latest of: (1) the date on  
28 which the notice is given, or (2) the return date of the subpoena or other process. The party

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1 receiving the subpoena (or other process) shall reasonably cooperate with efforts by the Disclosing  
2 Party to oppose production pursuant to the subpoena or to condition production upon the  
3 imposition of conditions to protect against public disclosure of Confidential Information and  
4 Highly Confidential Information. Further, if production pursuant to the subpoena or other process  
5 is required before reasonable notice can be given to counsel for the Disclosing Party of such  
6 information, counsel for the party receiving the subpoena shall object in writing to the production  
7 by stating that the information sought has been designated Confidential Information or Highly  
8 Confidential Information.

9       22. Nothing herein shall be construed to affect in any way the admissibility of any  
10 Discovery Material affected or designated under this Agreement.

11       23. Within thirty (30) days of final termination of this action, including any appeals (or  
12 such other amount of time on which counsel mutually agree), each Receiving Party shall be under  
13 obligation to assemble and return to the Disclosing Party, or alternatively, upon mutual agreement  
14 of the parties and counsel, to destroy and provide a certificate of destruction of, all material  
15 received, directly or indirectly from the Disclosing Party embodying Confidential Information or  
16 Highly Confidential Information, including all copies of such material which may have been made.  
17 The return of such material shall be acknowledged by the Disclosing Party in writing.  
18 Furthermore, counsel shall destroy all copies with any attorneys' markings, and any digests or  
19 summaries thereof which have been made, or prepared from such documents in the course of  
20 creating attorney work product. Notwithstanding the foregoing, to the extent such material is  
21 incorporated into any attorney work product or document or exhibit properly filed with the Court,  
22 a single copy of such material may be retained in outside counsel's files.

23       24. The attorneys for the parties shall make good faith efforts to resolve any dispute  
24 about the interpretation of and/or the conduct or activities of any party or person under this  
25 Protective Order. If a dispute cannot be resolved, then a dissatisfied party may seek relief from or  
26 clarification or modification or enforcement of this Protective Order by means of a motion to the  
27 Court.

28       25. The Court shall retain jurisdiction over the parties for purposes of enforcement of


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this Order.

IT IS SO ORDERED.

Dated: 6th day of March, 2012.

  
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GEORGE FOLEY, JR.  
United States Magistrate Judge

APPROVED FOR ENTRY:

CYBERGUN S.A. and FN HERSTAL, S.A.

JAG PRECISION

By: Richard T. Jackson

By: Thomas I. Rozsa

Dated: March 3, 2012

Dated: February 29, 2012

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EXHIBIT A  
UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA

CYBERGUN S.A., a French Corporation, and  
FN HERSTAL, S.A., a Belgian Corporation,

Plaintiffs,

v.

JAG PRECISION, a California Corporation,

Defendant.

CASE NO. 2:12-cv-00074-KJD-GWF

DECLARATION OF

RE:

PROTECTIVE ORDER WITH  
RESPECT TO CONFIDENTIAL  
INFORMATION AND DOCUMENTS

I, \_\_\_\_\_, declare that:

1. My address is \_\_\_\_\_.

2. My present employer is \_\_\_\_\_ and the address of my present  
employment is \_\_\_\_\_.

3. I have read and know the contents of the Stipulated Protective Order that the Court  
entered on \_\_\_\_\_, 2012.

4. I am one of the persons described in the Order, and I am executing this Declaration  
and agreeing to be bound by its terms in order to satisfy the conditions provided in the Order prior  
to the disclosure to me of any confidential information under the Order.

5. I have read and I shall be fully bound by the terms of the aforesaid Order.

6. All such documents and information which are disclosed to me pursuant to the  
Order shall be maintained by me in strict confidence and I shall not disclose or use the original or  
any copy of, or the subject of, such documents and/or information except in accordance with the  
aforesaid Order.

7. I shall not use or refer to any of the aforesaid documents and/or information, or  
copies thereof, other than in connection with the above-entitled action and as provided in the  
Order.

8. I shall, upon being notified of the termination of the above-entitled action, return all  
copies of such documents to counsel from whom I receive such documents, and I shall destroy any

*Handwritten initials: NJG JGS*

1 notes and/or memoranda I have regarding the aforesaid documents and/or information.

2 9. I do and shall subject myself to the continuing jurisdiction of the United States  
3 District Court for the Central District of California over my person, wherever I shall be, for the  
4 enforcement of the aforesaid Order.

5 I declare under penalty of perjury under the laws of the United States of America that the  
6 foregoing is true and correct.

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8 Date: \_\_\_\_\_

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[SIGNATURE]

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