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6 UNITED STATES DISTRICT COURT
7 EASTERN DISTRICT OF WASHINGTON

8 ROBERT and DANELLE)
BLANGERES, individually and on)
9 behalf of others similarly situated,)

10 Plaintiffs,)

11 vs.)

12 UNITED STATES SEAMLESS, INC.,)
and KAYCAN LIMITED,)

13 Defendants.)
14)

No. CV-13-260-LRS

PROTECTIVE ORDER

15 This Protective Order (hereinafter "Order") is entered pursuant to Fed R.
16 Civ. Proc. 26(c). The parties have stipulated and agreed, and the Court recognizes,
17 that the parties and non-party witnesses to this action may possess private, trade
18 secret, and/or proprietary information, which is confidential or of competitive
19 commercial value and may be subject to discovery in this action, but which should
20 not be made available to competitors or to the public generally.

21 Accordingly, IT IS HEREBY ORDERED as follows:

22 A. CONFIDENTIAL Documents Defined.

1 1. Documents or information produced or disclosed within any
2 proceeding, formal or informal, including but not limited to, written discovery,
3 depositions, affidavits, document production and expert disclosures, by any of the
4 parties to this action or by any non-party witness, which a party or witness
5 designates as CONFIDENTIAL. For purposes of this Protective Order,
6 CONFIDENTIAL information includes, but is not limited to, documents that
7 contain trade secrets, proprietary or commercially sensitive information, employee
8 records and personnel files, and any other information subject to privacy rights. If
9 discoverable, employee records and personnel files may be marked
10 CONFIDENTIAL. By agreeing to this Order and defining CONFIDENTIAL
11 information the parties are not agreeing or stipulating that any specific documents
12 are discoverable, and reserve all rights and objections.

13 2. Not all documents are CONFIDENTIAL; however, a producing party
14 reserves the right to evaluate such documents and to designate such documents or
15 portions thereof should they contain CONFIDENTIAL or ATTORNEYS' EYES
16 ONLY information within. Each party or non-party that designates information or
17 items for protection under this agreement must make good faith efforts to limit any
18 such designation to specific material that qualifies under the appropriate standards.
19 A designating party must make good faith efforts to designate for protection only
20 those parts of material, documents, items, or oral or written communications that
21 qualify - so that other portions of the material, documents, items, or
22 communications for which confidential protection is not warranted are not
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1 designated as CONFIDENTIAL. If it comes to a party's or a non-party's attention
2 that information or items designated as CONFIDENTIAL do not qualify for such
3 protection, and the designating party agrees that the information or items should
4 not be designated as CONFIDENTIAL, that party or non-party must promptly
5 notify all other parties that it is withdrawing the mistaken designation.

6 3. CONFIDENTIAL information shall be revealed only to: (a) the
7 Court, the Court's staff and any Court-appointed mediators, arbitrators or expert
8 witnesses; (b) the parties and their officers, employees, and agents who are
9 providing assistance to counsel in this action (including in-house counsel
10 participating in the defense of this action), and any persons joined as parties in the
11 future; (c) the parties' attorneys of record and those attorneys' associates,
12 assistants, employees, and vendors; (d) consultants, technical experts, expert
13 witnesses, potential fact witnesses, and agents involved in the preparation of this
14 action who have signed the "Agreement to be Bound by Protective Order"
15 attached hereto as Exhibit A; (e) insurers or representatives of the parties who
16 have signed the "Agreement to be Bound by Protective Order" attached hereto as
17 Exhibit A; and (f) court reporters, their transcribers, assistants, and employees.
18 Documents which a Party or its legal counsel has caused or permitted to enter the
19 public domain through means other than litigation shall not be deemed
20 confidential.

21 B. ATTORNEYS' EYES ONLY Documents Defined.

22 The Parties may also designate certain confidential documents or
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1 information as ATTORNEYS' EYES ONLY. Information and documents
2 identified as ATTORNEYS' EYES ONLY may be disclosed only to the parties'
3 attorneys of record in this matter, and shall not be reproduced by any means.
4 After review, if the attorneys for the party receiving such documents or
5 information identified as ATTORNEYS' EYES ONLY believe that such
6 documents or information must be reviewed by an individual representative of
7 their client, an expert, or other person, that party's attorneys shall make a request
8 in writing specifically identifying the individuals to whom they intend to disclose
9 the documents or information and stating the basis for such disclosure. If the
10 designating party refuses to permit disclosure, the designating party may file and
11 serve a motion to retain confidentiality. The burden of persuasion in any such
12 motion shall be on the designating party. Frivolous challenges, and those made for
13 an improper purpose (e.g., to harass or impose unnecessary expenses and burdens
14 on other parties) may expose the challenging party to sanctions. All parties shall
15 continue to maintain the material in question as CONFIDENTIAL and for
16 ATTORNEYS EYES ONLY until the court rules on the challenge.

17 C. Use of CONFIDENTIAL and ATTORNEYS' EYES ONLY
18 Documents.

19 1. The parties, counsel for the parties, and all other persons to whom
20 CONFIDENTIAL or ATTORNEYS' EYES ONLY documents or information is
21 disclosed in accordance with this Protective Order shall use all such documents or
22 information solely for the purposes of case preparation and trial in this litigation.

1 2. Before disclosing CONFIDENTIAL or ATTORNEYS' EYES ONLY
2 documents or information in accordance with this Protective Order to any person
3 or entity other than the Court, court reporters, and their respective staff or a party,
4 its officers, employees, or agents who are providing assistance to counsel in this
5 civil action, or attorneys for a party and their paralegals or clerical staffs, counsel
6 for the party seeking to disclose such information shall obtain that person's
7 signature to the "Agreement to be Bound by Protective Order," attached hereto as
8 Exhibit A. Such person shall sign and date a copy of the "Agreement to be Bound
9 by Protective Order," evidencing his or her agreement to be bound thereby. Such
10 counsel shall maintain all signed copies of the "Agreement to be Bound by
11 Protective Order" until the conclusion of this case, as defined below, and shall be
12 required to provide a copy of any signed "Agreement to be Bound by Protective
13 Order" to the producing party upon request.

14 3. Before filing CONFIDENTIAL or ATTORNEYS' EYES ONLY
15 documents or information or discussing or referencing such material in court
16 filings, the filing party shall first confer with the designating party to determine
17 whether the designating party will remove the confidential designation, whether
18 the document can be redacted, or whether a motion to seal or stipulation and
19 proposed order is warranted. If it is determined by the parties that material
20 designated as CONFIDENTIAL or ATTORNEYS' EYES ONLY should be filed
21 under seal, then the filing party shall use the procedures set forth in Local
22 Rule5(g) in the Western District of Washington U.S. District Court's Local Rules
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1 governing the electronic filing of sealed documents. If any party or person fails to
2 file protected documents or information as set forth above, the producing party or
3 any party claiming confidentiality for the documents or information may move the
4 Court to place the filing under seal.

5 4. Depositions or portions thereof may be designated CONFIDENTIAL
6 or ATTORNEYS' EYES ONLY by informing the court reporter (and
7 videographer, if applicable) at the time of the deposition and/or within no later
8 than fifteen (15) days after the transcript has been provided to counsel. The court
9 reporter (and/or videographer) shall indicate that such designation was made and
10 shall stamp or mark the face of the transcript (and/or videotape) accordingly. All
11 depositions, deposition testimony and deposition exhibits containing
12 CONFIDENTIAL or ATTORNEYS' EYES ONLY information shall be deemed
13 Confidential as designated until fifteen (15) days after receipt of the final
14 transcript from the court reporter by the producing party. If a deponent refuses to
15 agree to sign the "Agreement to be Bound by Protective Order" attached hereto as
16 Exhibit A, disclosure of CONFIDENTIAL and/or ATTORNEYS' EYES ONLY
17 information during the deposition shall not constitute a waiver of confidentiality.

18 5. In the event that any entity, person or party bound by this Protective
19 Order having possession, custody or control of any CONFIDENTIAL and/or
20 ATTORNEYS' EYES ONLY information receives a subpoena, other process or
21 court order to produce such CONFIDENTIAL and/or ATTORNEYS' EYES
22 ONLY information in any case, proceeding or forum, such entity, person or party
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1 shall notify the attorneys of the producing party and furnish such attorneys with a
2 copy of said subpoena, other process or order as soon as reasonably practicable
3 within the time period for compliance with such subpoena, process or court order.
4 The producing party shall then have the burden of opposing such subpoena,
5 process or order and obtaining relief from compliance within the time period for
6 compliance with the subpoena, process or order if it wishes to prevent disclosure
7 of the CONFIDENTIAL and/or ATTORNEYS' EYES ONLY information. The
8 CONFIDENTIAL and/or ATTORNEYS' EYES ONLY information will be
9 maintained and not disclosed until after any final determination by a court of
10 competent jurisdiction, including appeals, on any motion to quash or for protective
11 order that is filed.

12 6. In the event that counsel disagree with the propriety of the
13 designation of any item or items as being CONFIDENTIAL or ATTORNEYS'
14 EYES ONLY, the objecting party's counsel shall so advise opposing counsel by
15 specifying the item or items in question. In the event that an agreement cannot be
16 reached between counsel concerning the propriety of the designation, the objecting
17 party shall file a motion with the Court challenging the propriety of the
18 designation under applicable Court rules or statutes and case law. Any such item
19 or items shall continue to be treated as CONFIDENTIAL or ATTORNEYS'
20 EYES ONLY, and subject to this Protective Order and any other related Order,
21 until such time as the motion has been ruled upon. In connection with such a
22 motion, the Court, in its discretion, may award costs and reasonable attorneys'
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1 fees against any party that it finds acted unreasonably in designating a document
2 or information as CONFIDENTIAL or ATTORNEYS' EYES ONLY.

3 7. At the conclusion of this case (which shall be upon entry of a final
4 judgment in the last of any proceeding under the case number regardless of
5 whether an appeal is taken by any party), all CONFIDENTIAL or ATTORNEYS'
6 EYES ONLY information produced by any party and designated as subject to this
7 Order, including all copies, extracts and summaries thereof, shall be returned upon
8 request to the producing party within one hundred twenty (120) days after such
9 request is made. One copy of the returned documents shall be maintained by the
10 producing party. Attorney work product containing CONFIDENTIAL or
11 ATTORNEYS' EYES ONLY information may be destroyed instead of being
12 returned to the producing party, provided that counsel certifies in writing no later
13 than thirty (30) days after the request of the producing party that such destruction
14 has occurred.

15 D. Other Provisions Applicable to CONFIDENTIAL and
16 ATTORNEYS' EYES ONLY Documents.

17 1. Any CONFIDENTIAL or ATTORNEYS' EYES ONLY information
18 that is inadvertently produced without the appropriate designation or other
19 identification as to its confidential nature may be designated as CONFIDENTIAL
20 or ATTORNEYS' EYES ONLY in writing within forty five (45) days of the date
21 of the original production of such information by the producing party.

22 2. Should any CONFIDENTIAL or ATTORNEYS' EYES ONLY
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1 information be inadvertently disclosed to any person not allowed access under the
2 terms and provisions of this order, then the disclosing party, promptly upon
3 becoming aware of such disclosure, shall (a) identify such person to the producing
4 party; (b) inform such person of all the provisions of this order; (c) request that
5 such person sign the “Agreement to be Bound by Protective Order” attached
6 hereto as Exhibit A; and (d) use its best efforts to retrieve all CONFIDENTIAL
7 and/or ATTORNEYS’ EYES ONLY information that the person was not
8 authorized to receive.

9 3. This Protective Order is entered for the purpose of facilitating the
10 exchange of documents and other materials without involving the Court
11 unnecessarily in the process. Nothing in this order, nor the production of any
12 document or other materials under the terms of this order, nor any proceedings
13 pursuant to this order, shall be deemed: (a) to have the effect of an admission or
14 waiver by any party or third party; (b) to alter the confidentiality or non-
15 confidentiality of any such document or other material; (c) to alter any existing
16 obligation of any party or third party; or (d) preclude the parties from exercising
17 any rights or raising any objections available to them under the rules of discovery
18 and evidence and case law construing the same.

19 4. The terms of this Protective Order shall remain in effect after the
20 conclusion of this case, and this Court hereby retains jurisdiction to interpret and
21 enforce this Protective Order pursuant to and under the Federal Rules of Civil
22 Procedure following the conclusion of this case. The parties, including all experts
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1 and other persons subject to discovery in this action or who receive a copy of this
2 Protective Order, hereby consent to the jurisdiction of this Court for the purpose of
3 enforcement of this Protective Order.

4 5. All documents produced that the producing party intends to be
5 designated CONFIDENTIAL or ATTORNEYS' EYES ONLY shall be so marked.

6 E. PRIVILEGED DOCUMENTS

7 1. In the event that a document as to which a privilege from production
8 or disclosure is claimed (including but not limited to attorney-client privilege
9 and/or the work product doctrine) is inadvertently disclosed during document
10 inspection and/or copying, such inadvertent disclosure shall not constitute a
11 waiver of any privilege with respect to such document or any other documents,
12 and such document (and all copies made thereof) will be promptly returned to the
13 producing party upon demand.

14 2. Production of documents on which there are notations indicating that
15 they were carbon copied or otherwise transmitted to in-house or outside attorneys
16 or claim representatives does not constitute a waiver of the attorney-client
17 privilege or work product immunity as to: (a) any other documents or
18 communications; or (b) any communications with any attorneys.

19 DATED this 3rd day of March, 2014.

20 *s/Lonny R. Suko*

21 _____
22 LONNY R. SUKO
23 Senior United States District Judge

1 Exhibit A

2 AGREEMENT TO BE BOUND BY PROTECTIVE ORDER

3 I have reviewed a copy of the Protective Order entered in the litigation
4 known as *Robert and Danelle Blangeres v. United States Seamless, Inc. and*
5 *Kaycan Limited, Case No. CV-13-260-LRS* in the United States District Court,
6 Eastern District of Washington. I understand the limitations this Protective Order
7 imposes on the use and disclosure of documents and/or information designated as
8 CONFIDENTIAL and/or ATTORNEYS' EYES ONLY. I agree to be bound by all
9 of the terms of the Protective Order. I further understand that the unauthorized use
10 or disclosure of documents and/or designated as CONFIDENTIAL and/or
11 ATTORNEYS' EYES ONLY may constitute contempt of Court, and I hereby
12 consent to the personal jurisdiction of the United States District Court, Eastern
13 District of Washington, in connection with the use or disclosure of such
14 information.

15 DATED this ____ day of _____, _____.

16
17
18 _____
Print Name: _____