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# UNITED STATES DISTRICT COURT

## CENTRAL OF CALIFORNIA

## SANTA ANA DIVISION

UNILOC 2017 LLC,

                  Plaintiff,

        v.

INFOR, INC.,

                  Defendant.

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UNILOC 2017 LLC,

                  Plaintiff,

        v.

NETSUITE INC.,

                  Defendant.

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UNILOC 2017 LLC,

                  Plaintiff,

        v.

SQUARE ENIX, INC., and
SQUARE ENIX LLC,

                  Defendant.

Case No. 8:19-cv-01150-DOC-KES
(Lead Case)

**ORDER RE STIPULATED
PROTECTIVE ORDER**

[Discovery Document: Referred to
Magistrate Judge Karen E. Scott]

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UNILOC 2017 LLC,

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Plaintiff,

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v.

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UBISOFT, INC.,

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Defendant.

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UNILOC 2017 LLC,

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Plaintiff,

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v.

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SQUARE ENIX HOLDINGS CO. LTD.,
and

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SQUARE ENIX CO., LTD.,

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Defendant.

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It is hereby stipulated by the parties that the Court enter the following Order protecting confidentiality of both party and non-party information to be disclosed in this litigation, with Uniloc and Square Enix to separately address one issue with the Court, to the extent necessary, as outlined in footnote 1 to this Order.

GOOD CAUSE STATEMENT:

This action is likely to involve information about sensitive products and/or services, proprietary design and development materials of products and/or services, source code, strategic decision-making information, marketing and sales information, and/or proprietary information for which special protection from public disclosure and dissemination and from use for any purpose other than prosecution of this action is warranted. Such confidential and proprietary materials and information consist of, among other things, confidential business or financial information, information regarding confidential business practices, or other confidential research, development, or commercial information (including information implicating confidentiality and privacy rights of third parties), information otherwise generally unavailable to the public, or which may be privileged or otherwise protected from disclosure under state or federal statutes, court rules, case decisions, or common law. Accordingly, to expedite the flow of information, to facilitate the prompt resolution of disputes over confidentiality of discovery materials, to adequately protect information the parties are entitled to keep confidential, to ensure that the parties are permitted reasonable necessary uses of such material in preparation for and in the conduct of trial, to address their handling at the end of the litigation, and serve the ends of justice, a protective order for such information is justified in this matter. It is the intent of the parties that information will not be designated as confidential for tactical reasons and that nothing be so designated without a good faith belief that it has been maintained in a confidential, non-public manner, and there is good cause why it should not be part of the public record of this case.

1.      PURPOSES AND LIMITATIONS

Disclosure and discovery activity in this action are likely to involve production of confidential, proprietary, or private information for which special protection from public disclosure and from use for any purpose other than prosecuting this litigation may be warranted.  This Order does not confer blanket protections on all disclosures or responses to discovery and the protection it affords from public disclosure and use extends only to the limited information or items that are entitled to confidential treatment under the applicable legal principles and Civil Local Rules. As set forth in paragraph 13.3 below, this Protective Order does not by itself entitle the Parties to file confidential information under seal; Civil Local Rule 79-5 sets forth the procedures that must be followed and the standards that will be applied when a party seeks permission from the Court to file material under seal.

2.      DEFINITIONS

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

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

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

2.4      Designating Party: a Party or Non-Party that designates information or items that it produces in disclosures or in responses to discovery as "CONFIDENTIAL" or "HIGHLY CONFIDENTIAL – ATTORNEYS' EYES ONLY" or "HIGHLY CONFIDENTIAL – SOURCE CODE."

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

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

2.7     <u>"HIGHLY CONFIDENTIAL – ATTORNEYS' EYES ONLY" Information or Items</u>: extremely sensitive "CONFIDENTIAL" information or items, disclosure of which to another Party or Non-Party would create a substantial risk of serious harm that could not be avoided by less restrictive means.

2.8     <u>"HIGHLY CONFIDENTIAL – SOURCE CODE"</u> Information or Items: extremely sensitive "CONFIDENTIAL" information or items representing computer code and associated comments and revision histories, formulas, engineering specifications, or schematics that define or otherwise describe in detail the algorithms or structure of software or hardware designs, disclosure of which to another Party or Non-Party would create a substantial risk of serious harm that could not be avoided by less restrictive means.

2.9     <u>House Counsel</u>: attorneys for the Parties that have responsibility for making decisions dealing directly with the litigation of this action. House Counsel does not include Outside Counsel of Record or any other outside counsel.[1]

2.10    <u>Non-Party</u>: any natural person, partnership, corporation, association, or other legal entity not named as a Party to this action.

2.11    <u>Outside Counsel of Record</u>: attorneys who are not employees of a Party to this action but are retained to represent or advise a Party to this action and have

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[1] The parties have one dispute concerning the inclusion of non-attorney, equivalent personnel in the definition of "House Counsel" that the parties are continuing to discuss and will separately address via the Local Rules and Magistrate Judge Scott's procedures, to the extent necessary.  However, in the interest of not having the lack of a Protective Order impede discovery and so that the parties can produce confidential information with adequate protections in place, the parties have stipulated to entry of this Protective Order.

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