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UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION

**QIUZI HU**, an individual, **EDWIN RAMIREZ**, an individual, **IVAN RONCERIA**, an individual, **WENZHI FEI**, an individual, on behalf of themselves and all others similarly situated,

Plaintiffs,

v.

**JOSE M. PLEHN-DUJOWICH**, an individual, and **BIZQUALIFY LLC**, a California limited liability company,

Defendants..

Case No. 3:18-CV-01791-EDL

~~PROPOSED~~ STIPULATED PROTECTIVE ORDER

1 **1. PURPOSES AND LIMITATIONS**

2 Disclosure and discovery activity in this action are likely to involve production of  
3 confidential, proprietary, or private information for which special protection from public disclosure  
4 and from use for any purpose other than prosecuting this litigation may be warranted. Accordingly,  
5 the parties hereby stipulate to and petition the court to enter the following Stipulated Protective  
6 Order. The parties acknowledge that this Order does not confer blanket protections on all disclosures  
7 or responses to discovery and that the protection it affords from public disclosure and use extends  
8 only to the limited information or items that are entitled to confidential treatment under the  
9 applicable legal principles. The parties further acknowledge, as set forth in Section 14.4, below, that  
10 this Stipulated Protective Order does not entitle them to file confidential information under seal;  
11 Civil Local Rule 79-5 sets forth the procedures that must be followed and the standards that will be  
12 applied when a party seeks permission from the court to file material under seal.

13 **2. DEFINITIONS**

14 2.1 Challenging Party: a Party or Non-Party that challenges the designation of  
15 information or items under this Order.

16 2.2 “CONFIDENTIAL” Information or Items: information (regardless of how it is  
17 generated, stored or maintained) or tangible things that qualify for protection under Federal Rule of  
18 Civil Procedure 26(c).

19 2.3 Counsel (without qualifier): Outside Counsel of Record (as well as their support  
20 staff).

21 2.4 Designating Party: a Party or Non-Party that designates information or items that it  
22 produces in disclosures or in responses to discovery as “CONFIDENTIAL” or “HIGHLY  
23 CONFIDENTIAL – ATTORNEYS’ EYES ONLY,” or “HIGHLY CONFIDENTIAL – SOURCE  
24 CODE”.

25 2.5 Disclosure or Discovery Material: all items or information, regardless of the medium  
26 or manner in which it is generated, stored, or maintained (including, among other things, testimony,  
27 transcripts, and tangible things), that are produced or generated in disclosures or responses to  
28 discovery in this matter.

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

6           2.7     “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY” Information or Items:  
7 extremely sensitive “Confidential Information or Items,” disclosure of which to another Party or  
8 Non-Party would create a substantial risk of serious harm that could not be avoided by less  
9 restrictive means.

10          2.8     “HIGHLY CONFIDENTIAL – SOURCE CODE” Information or Items: extremely  
11 sensitive “Confidential Information or Items” representing computer code and associated comments  
12 and revision histories, formulas, engineering specifications, or schematics that define or otherwise  
13 describe in detail the algorithms or structure of software or hardware designs, disclosure of which to  
14 another Party or Non-Party would create a substantial risk of serious harm that could not be avoided  
15 by less restrictive means.

16          2.9     Non-Party: any natural person, partnership, corporation, association, or other legal  
17 entity not named as a Party to this action.

18          2.10    Outside Counsel of Record: attorneys who are not employees of a party to this action  
19 but are retained to represent or advise a party to this action and have appeared in this action on  
20 behalf of that party or are affiliated with a law firm which has appeared on behalf of that party.

21          2.11    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          2.12    Producing Party: a Party or Non-Party that produces Disclosure or Discovery  
24 Material in this action.

25          2.13    Professional Vendors: persons or entities that provide litigation support services (e.g.,  
26 photocopying, videotaping, translating, preparing exhibits or demonstrations, and organizing,  
27 storing, or retrieving data in any form or medium) and their employees and subcontractors.

28

1           2.14 Protected Material: any Disclosure or Discovery Material that is designated as  
2 “CONFIDENTIAL,” or as “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY,” or as  
3 “HIGHLY CONFIDENTIAL – SOURCE CODE.”

4           2.15 Receiving Party: a Party that receives Disclosure or Discovery Material from a  
5 Producing Party.

### 6 **3. SCOPE**

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

### 19 **4. DURATION**

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

### 26 **5. DESIGNATING PROTECTED MATERIAL**

27           5.1 Exercise of Restraint and Care in Designating Material for Protection. Each Party or  
28 Non-Party that designates information or items for protection under this Order must take care to

1 limit any such designation to specific material that qualifies under the appropriate standards. To the  
2 extent it is practical to do so, the Designating Party must designate for protection only those parts of  
3 material, documents, items, or oral or written communications that qualify – so that other portions of  
4 the material, documents, items, or communications for which protection is not warranted are not  
5 swept unjustifiably within the ambit of this Order.

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

10 If it comes to a Designating Party’s attention that information or items that it designated for  
11 protection do not qualify for protection at all or do not qualify for the level of protection initially  
12 asserted, that Designating Party must promptly notify all other parties that it is withdrawing the  
13 mistaken designation.

14 5.2 Manner and Timing of Designations. Except as otherwise provided in this Order (see,  
15 e.g., second paragraph of section 5.2(a) below), or as otherwise stipulated or ordered, Disclosure or  
16 Discovery Material that qualifies for protection under this Order must be clearly so designated  
17 before the material is disclosed or produced.

18 Designation in conformity with this Order requires:

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

26 A Party or Non-Party that makes original documents or materials available for inspection  
27 need not designate them for protection until after the inspecting Party has indicated which material it  
28 would like copied and produced. During the inspection and before the designation, all of the material

1 made available for inspection shall be deemed “HIGHLY CONFIDENTIAL – ATTORNEYS’  
2 EYES ONLY.” After the inspecting Party has identified the documents it wants copied and  
3 produced, the Producing Party must determine which documents, or portions thereof, qualify for  
4 protection under this Order. Then, before producing the specified documents, the Producing Party  
5 must affix the appropriate legend (“CONFIDENTIAL” or “HIGHLY CONFIDENTIAL –  
6 ATTORNEYS’ EYES ONLY” or “HIGHLY CONFIDENTIAL – SOURCE CODE) to each page  
7 that contains Protected Material. If only a portion or portions of the material on a page qualifies for  
8 protection, the Producing Party also must clearly identify the protected portion(s) (e.g., by making  
9 appropriate markings in the margins) and must specify, for each portion, the level of protection  
10 being asserted.

11 (b) for testimony given in deposition or in other pretrial or trial proceedings, that the  
12 Designating Party identify on the record, before the close of the deposition, hearing, or other  
13 proceeding, all protected testimony and specify the level of protection being asserted. When it is  
14 impractical to identify separately each portion of testimony that is entitled to protection and it  
15 appears that substantial portions of the testimony may qualify for protection, the Designating Party  
16 may invoke on the record (before the deposition, hearing, or other proceeding is concluded) a right  
17 to have up to 21 days to identify the specific portions of the testimony as to which protection is  
18 sought and to specify the level of protection being asserted. Only those portions of the testimony that  
19 are appropriately designated for protection within the 21 days shall be covered by the provisions of  
20 this Stipulated Protective Order. Alternatively, a Designating Party may specify, at the deposition or  
21 up to 21 days afterwards if that period is properly invoked, that the entire transcript shall be treated  
22 as “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY.”

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

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

9 (c) for information produced in some form other than documentary and for any other tangible  
10 items, that the Producing Party affix in a prominent place on the exterior of the container or  
11 containers in which the information or item is stored the legend “CONFIDENTIAL” or “HIGHLY  
12 CONFIDENTIAL – ATTORNEYS’ EYES ONLY” or “HIGHLY CONFIDENTIAL – SOURCE  
13 CODE”. If only a portion or portions of the information or item warrant protection, the Producing  
14 Party, to the extent practicable, shall identify the protected portion(s) and specify the level of  
15 protection being asserted.

16 5.3 Inadvertent Failures to Designate. If timely corrected, an inadvertent failure to  
17 designate qualified information or items does not, standing alone, waive the Designating Party’s  
18 right to secure protection under this Order for such material. Upon timely correction of a  
19 designation, the Receiving Party must make reasonable efforts to assure that the material is treated in  
20 accordance with the provisions of this Order.

## 21 **6. CHALLENGING CONFIDENTIALITY DESIGNATIONS**

22 6.1 Timing of Challenges. Any Party or Non-Party may challenge a designation of  
23 confidentiality at any time. Unless a prompt challenge to a Designating Party’s confidentiality  
24 designation is necessary to avoid foreseeable, substantial unfairness, unnecessary economic burdens,  
25 or a significant disruption or delay of the litigation, a Party does not waive its right to challenge a  
26 confidentiality designation by electing not to mount a challenge promptly after the original  
27 designation is disclosed.  
28

1           6.2     Meet and Confer. The Challenging Party shall initiate the dispute resolution process  
2 by providing written notice of each designation it is challenging and describing the basis for each  
3 challenge. To avoid ambiguity as to whether a challenge has been made, the written notice must  
4 recite that the challenge to confidentiality is being made in accordance with this specific paragraph  
5 of the Protective Order. The parties shall attempt to resolve each challenge in good faith and must  
6 begin the process by conferring directly (in voice to voice dialogue; other forms of communication  
7 are not sufficient) within 14 days of the date of service of notice. In conferring, the Challenging  
8 Party must explain the basis for its belief that the confidentiality designation was not proper and  
9 must give the Designating Party an opportunity to review the designated material, to reconsider the  
10 circumstances, and, if no change in designation is offered, to explain the basis for the chosen  
11 designation. A Challenging Party may proceed to the next stage of the challenge process only if it  
12 has engaged in this meet and confer process first or establishes that the Designating Party is  
13 unwilling to participate in the meet and confer process in a timely manner.

14           6.3     Judicial Intervention. If the Parties cannot resolve a challenge without court  
15 intervention, the Designating Party shall file and serve a motion to retain confidentiality under Civil  
16 Local Rule 7 (and in compliance with Civil Local Rule 79-5, if applicable) within 21 days of the  
17 initial notice of challenge or within 14 days of the parties agreeing that the meet and confer process  
18 will not resolve their dispute, whichever is earlier. Each such motion must be accompanied by a  
19 competent declaration affirming that the movant has complied with the meet and confer  
20 requirements imposed in the preceding paragraph. Failure by the Designating Party to make such a  
21 motion including the required declaration within 21 days (or 14 days, if applicable) shall  
22 automatically waive the confidentiality designation for each challenged designation. In addition, the  
23 Challenging Party may file a motion challenging a confidentiality designation at any time if there is  
24 good cause for doing so, including a challenge to the designation of a deposition transcript or any  
25 portions thereof. Any motion brought pursuant to this provision must be accompanied by a  
26 competent declaration affirming that the movant has complied with the meet and confer  
27 requirements imposed by the preceding paragraph.

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

8 **7. ACCESS TO AND USE OF PROTECTED MATERIAL**

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

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

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

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

24 (b) the officers, directors, and employees of the Receiving Party to whom disclosure is  
25 reasonably necessary for this litigation and who have signed the "Acknowledgment and Agreement  
26 to Be Bound" (Exhibit A);

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

4 (d) the court and its personnel;

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

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

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

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

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

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

28 (c) the court and its personnel;

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

4 (e) the author or recipient of a document containing the information or a custodian or other  
5 person who otherwise possessed or knew the information.

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

9 (a)(1) Unless otherwise ordered by the court or agreed to in writing by the Designating Party,  
10 a Party that seeks to disclose to an Expert (as defined in this Order) any information or item that has  
11 been designated “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES  
12 ONLY” may be disclosed to an Expert without disclosure of the identity of the Expert as long as the  
13 Expert is not a current officer, director, or employee of a competitor of a Party or anticipated to  
14 become one.

15 (a)(2) Unless otherwise ordered by the court or agreed to in writing by the Designating Party,  
16 a Party that seeks to disclose to an Expert (as defined in this Order) any information or item that has  
17 been designated “HIGHLY CONFIDENTIAL – SOURCE CODE” pursuant to paragraph 7.3(c) first  
18 must make a written request to the Designating Party that (1) identifies the general categories of  
19 “HIGHLY CONFIDENTIAL – SOURCE CODE” information that the Receiving Party seeks  
20 permission to disclose to the Expert, (2) sets forth the full name of the Expert and the city and state  
21 of his or her primary residence, (3) attaches a copy of the Expert’s current resume, (4) identifies the  
22 Expert’s current employer(s), (5) identifies each person or entity from whom the Expert has received  
23 compensation or funding for work in his or her areas of expertise or to whom the expert has provided  
24 professional services, including in connection with a litigation, at any time during the preceding five  
25 years, and (6) identifies (by name and number of the case, filing date, and location of court) any  
26 litigation in connection with which the Expert has offered expert testimony, including through a  
27 declaration, report, or testimony at a deposition or trial, during the preceding five years.

28

1 (b) A Party that makes a request and provides the information specified in the preceding  
2 respective paragraphs may disclose the subject Protected Material to the Expert unless, within 14  
3 days of delivering the request, the Party receives a written objection from the Designating Party.  
4 Any such objection must set forth in detail the grounds on which it is based.

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

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

19 **8. PROSECUTION BAR**

20 Absent written consent from the Producing Party, any individual who receives access to  
21 "HIGHLY CONFIDENTIAL – ATTORNEYS' EYES ONLY" or "HIGHLY CONFIDENTIAL –  
22 SOURCE CODE" information shall not be involved in the prosecution of patents or patent  
23 applications relating to any highly confidential source code produced by parties or third parties,  
24 including but not limited to source code relating to any financial assessment tool(s), including  
25 without limitation the patents asserted in this action and any patent or application claiming priority  
26 to or otherwise related to the patents asserted in this action, before any foreign or domestic agency,  
27 including the United States Patent and Trademark Office ("the Patent Office"). For purposes of this  
28 paragraph, "prosecution" includes directly or indirectly drafting, amending, advising, or otherwise

1 affecting the scope or maintenance of patent claims. To avoid any doubt, “prosecution” as used in  
2 this paragraph does not include representing a party challenging a patent before a domestic or  
3 foreign agency (including, but not limited to, a reissue protest, *ex parte* reexamination or *inter partes*  
4 reexamination). This Prosecution Bar shall begin when access to “HIGHLY CONFIDENTIAL –  
5 ATTORNEYS’ EYES ONLY” “HIGHLY CONFIDENTIAL – SOURCE CODE” information is  
6 first received by the affected individual and shall end two (2) years after final termination of this  
7 action.

8 **9. SOURCE CODE**

9 (a) To the extent production of source code becomes necessary in this case, a Producing  
10 Party may designate source code as “HIGHLY CONFIDENTIAL - SOURCE CODE” if it comprises  
11 or includes confidential, proprietary or trade secret source code.

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

17 (c) Any source code produced in discovery shall be made available for inspection in a  
18 format through which it could be reasonably reviewed and searched during normal business hours or  
19 other mutually agreeable times at a location that is reasonably convenient for the Receiving Party  
20 and any experts to whom the source code may be disclosed. The source code shall be made available  
21 for inspection on a secured computer in a secured room without Internet access or network access to  
22 other computers, and the Receiving Party shall not copy, remove, or otherwise transfer any portion  
23 of the source code onto any recordable media or recordable device. The Producing Party may  
24 visually monitor the activities of the Receiving Party’s representatives during any source code  
25 review, but only to ensure that there is no unauthorized recording, copying, or transmission of the  
26 source code.

27 (d) The Receiving Party may request paper copies of limited portions of source code that  
28 are reasonably necessary for the preparation of court filings, pleadings, expert reports, or other

1 papers, or for deposition or trial, but shall not request paper copies for the purposes of reviewing the  
2 source code other than electronically as set forth in paragraph (c) in the first instance. The Producing  
3 Party shall provide all such source code in paper form including bates numbers and the label  
4 “HIGHLY CONFIDENTIAL - SOURCE CODE.” The Producing Party may challenge the amount  
5 of source code requested in hard copy form pursuant to the dispute resolution procedure and  
6 timeframes set forth in Paragraph 6 whereby the Producing Party is the “Challenging Party” and the  
7 Receiving Party is the “Designating Party” for purposes of dispute resolution.

8 (e) The Receiving Party shall maintain a record of any individual who has inspected any  
9 portion of the source code in electronic or paper form. The Receiving Party shall maintain all paper  
10 copies of any printed portions of the source code in a secured, locked area. The Receiving Party shall  
11 not create any electronic or other images of the paper copies and shall not convert any of the  
12 information contained in the paper copies into any electronic format. The Receiving Party shall only  
13 make additional paper copies if such additional copies are (1) necessary to prepare court filings,  
14 pleadings, or other papers (including a testifying expert’s expert report), (2) necessary for deposition,  
15 or (3) otherwise necessary for the preparation of its case. Any paper copies used during a deposition  
16 shall be retrieved by the Producing Party at the end of each day and must not be given to or left with  
17 a court reporter or any other unauthorized individual.

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

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

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

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

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

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

11 **11. A NON-PARTY’S PROTECTED MATERIAL SOUGHT TO BE PRODUCED IN**  
12 **THIS LITIGATION**

13 (a) The terms of this Order are applicable to information produced by a Non-Party in this  
14 action and designated as “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL – ATTORNEYS’  
15 EYES ONLY” or “HIGHLY CONFIDENTIAL – SOURCE CODE”. Such information produced by  
16 Non-Parties in connection with this litigation is protected by the remedies and relief provided by this  
17 Order. Nothing in these provisions should be construed as prohibiting a Non-Party from seeking  
18 additional protections.

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

- 22 1. promptly notify in writing the Requesting Party and the Non-Party that some  
23 or all of the information requested is subject to a confidentiality agreement with a Non-Party;
  - 24 2. promptly provide the Non-Party with a copy of the Stipulated Protective  
25 Order in this litigation, the relevant discovery request(s), and a reasonably specific description of the  
26 information requested; and
  - 27 3. make the information requested available for inspection by the Non-Party.
- 28

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

8 **12. UNAUTHORIZED DISCLOSURE OF PROTECTED MATERIAL**

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

16 **13. INADVERTENT PRODUCTION OF PRIVILEGED OR OTHERWISE PROTECTED**  
 17 **MATERIAL**

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

26 **14. MISCELLANEOUS**

27 14.1 Right to Further Relief. Nothing in this Order abridges the right of any person to seek  
 28 its modification by the court in the future.



1           14.2 Right to Assert Other Objections. By stipulating to the entry of this Protective Order  
2 no Party waives any right it otherwise would have to object to disclosing or producing any  
3 information or item on any ground not addressed in this Stipulated Protective Order. Similarly, no  
4 Party waives any right to object on any ground to use in evidence of any of the material covered by  
5 this Protective Order.

6           14.3 Filing Protected Material. Without written permission from the Designating Party or a  
7 court order secured after appropriate notice to all interested persons, a Party may not file in the  
8 public record in this action any Protected Material. A Party that seeks to file under seal any Protected  
9 Material must comply with Civil Local Rule 79-5. Protected Material may only be filed under seal  
10 pursuant to a court order authorizing the sealing of the specific Protected Material at issue. Pursuant  
11 to Civil Local Rule 79-5, a sealing order will issue only upon a request establishing that the  
12 Protected Material at issue is privileged, protectable as a trade secret, or otherwise entitled to  
13 protection under the law. If a Receiving Party's request to file Protected Material under seal pursuant  
14 to Civil Local Rule 79-5(e) is denied by the court, then the Receiving Party may file the Protected  
15 Material in the public record pursuant to Civil Local Rule 79-5(e)(2) unless otherwise instructed by  
16 the court.

17 **15. FINAL DISPOSITION**

18           Within 60 days after the final disposition of this action, as defined in paragraph 4, each  
19 Receiving Party must return all Protected Material to the Producing Party or destroy such material.  
20 As used in this subdivision, "all Protected Material" includes all copies, abstracts, compilations,  
21 summaries, and any other format reproducing or capturing any of the Protected Material. Whether  
22 the Protected Material is returned or destroyed, the Receiving Party must submit a written  
23 certification to the Producing Party (and, if not the same person or entity, to the Designating Party)  
24 by the 60-day deadline that (1) identifies (by category, where appropriate) all the Protected Material  
25 that was returned or destroyed and (2) affirms that the Receiving Party has not retained any copies,  
26 abstracts, compilations, summaries or any other format reproducing or capturing any of the Protected  
27 Material. Notwithstanding this provision, Counsel are entitled to retain an archival copy of all  
28 pleadings, motion papers, trial, deposition, and hearing transcripts, legal memoranda,

1 correspondence, deposition and trial exhibits, expert reports, attorney work product, and consultant  
2 and expert work product, even if such materials contain Protected Material. Any such archival copies  
3 that contain or constitute Protected Material remain subject to this Protective Order as set forth in  
4 Section 4 (DURATION).

5 IT IS SO STIPULATED, THROUGH COUNSEL OF RECORD.

6  
7 Dated: May 15, 2018

DHILLON LAW GROUP INC.

8  
9 By: /s/ Harmeet K. Dhillon

10 Harmeet K. Dhillon (SBN: 207872)  
11 Krista L. Baughman (SBN: 264600)  
12 Gregory R. Michael (SBN: 306814)

13 Attorneys for Plaintiffs Qiuzi Hu, Edwin Ramirez,  
14 Ivan Ronceria, Wenzhi Fei, Proposed Class and  
15 Subclass, and Collective Action

16  
17 Dated: May 15, 2018

COZEN O'CONNOR

18  
19 By: /s/ Adam P. Wiley

20 Frank Gooch III (SBN: 70996)  
21 Adam P. Wiley (SBN: 298686)

22 Attorneys for Defendants Jose M. Plehn-Dujowich  
23 and BizQualify LLC

24  
25 **ATTESTATION PER L.R. 5-1**

26 I, Harmeet K. Dhillon, hereby attest, pursuant to Local Rule 5-1, that the concurrence to the  
27 filing of this document has been obtained from each signatory hereto:

28  
29 Dated: May 15, 2018

DHILLON LAW GROUP INC.

30  
31 By: /s/ Harmeet K. Dhillon

32 Harmeet K. Dhillon (SBN: 207872)

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**PURSUANT TO STIPULATION, IT IS SO ORDERED.**

DATED: May 16, 2018

*Elizabeth D. Laporte*

Hon. Elizabeth D. Laporte  
United States Magistrate Judge

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EXHIBIT A

ACKNOWLEDGMENT AND AGREEMENT TO BE BOUND

I, \_\_\_\_\_ [print or type full name], of \_\_\_\_\_  
\_\_\_\_\_ [print or type full address], declare under penalty of perjury that I have  
read in its entirety and understand the Stipulated Protective Order that was issued by the United States  
District Court for the Northern District of California on \_\_\_\_\_ in the case of *Hu, et  
al. v. Plehn-Dujowich, et al.*, Case No. 3:18-cv-01791-EDL . I agree to comply with and to be bound by  
all the terms of this Stipulated Protective Order and I understand and acknowledge that failure to so comply  
could expose me to sanctions and punishment in the nature of contempt. I solemnly promise that I will not  
disclose in any manner any information or item that is subject to this Stipulated Protective Order to any  
person or entity except in strict compliance with the provisions of this Order.

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

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

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

City and State where sworn and signed: \_\_\_\_\_

Printed name: \_\_\_\_\_

[printed name]

Signature: \_\_\_\_\_

[signature]