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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON

BOURNE INTERNATIONAL, INC.,)
) NO. C06-5680RJB
 Plaintiff,)
) PROTECTIVE ORDER
 v.)
)
 CHET STOLER; SOUTH SEAS TRADING)
 CO.,)
)
 Defendants.)

STIPULATION

The parties hereby stipulate to entry of the subjoined order without further notice of entry to any party.

SO AGREED this 9th day of May, 2007.

RYLANDER & ASSOCIATES, P.C.

s/ Kurt M. Rylander
Kurt M. Rylander, WSBA #27819
Of Attorneys for Plaintiff

HEURLIN, POTTER, JAHN,
LEATHAM & HOLTMANN, P.S.

s/ Stephen G. Leatham
Stephen G. Leatham, WSBA #15572
Of Attorneys for Defendants

1 **ORDER**

2 Pursuant to the parties’ stipulation, the Court hereby enters the following protective
3 order pertaining to all documents designated by any party as "Attorneys' Eyes Only"
4 documents:

5 A. “Attorneys’ Eyes Only” Documents: Those documents believed by either
6 party to constitute protected trade secrets or other confidential business information may be
7 designated by the party producing such documents as "Attorneys' Eyes Only" documents.

8 B. Scope of “Attorneys’ Eyes Only” Designation. The special treatment
9 accorded to documents designated “attorneys’ eyes only” under this Order shall reach:

10 1. All designated “attorneys’ eyes only” documents and the information
11 contained therein;

12 2. All copies, extracts, and complete or partial summaries prepared from
13 such documents;

14 3. Any deposition transcript or exhibit, or portion thereof, that discusses
15 or refers to such documents, copies, extracts or summaries; and

16 4. Any portion of any discovery response, affidavit, brief, or other paper
17 filed with the Court, or exhibit thereto, that discusses or refers to such documents, copies,
18 extracts or summaries.

19 C. Restriction on Disclosure of “Attorneys’ Eyes Only” Documents. Any
20 document or information marked “Attorneys’ Eyes Only” shall not be disclosed or made
21 available to any persons, including parties to this litigation, except attorneys of record for the
22 undersigned parties and members and employees of their respective firms to whom it is
23 necessary that the material be disclosed for the purpose of this action, and the following:
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1 1. Independent experts or consultants who are retained to assist the
2 attorneys for the undersigned parties not employed by or affiliated with a party and not in
3 competition with a party;

4 2. The Court and Court personnel and stenographic reporters at
5 depositions taken in this action.

6 D. Third Party Disclosure. When it is necessary to disclose “Attorneys’ Eyes
7 Only” documents to a third party, not a party to this Protective Order, including, but not
8 limited to, expert witnesses, such third parties shall be required to execute an agreement to
9 maintain confidentiality, per this Order, before being given any access to any “Attorneys’
10 Eyes Only” documents. Counsel for each party shall retain the forms executed by such third
11 parties. In any event no third-party disclosure shall occur without prior notice to all parties to
12 allow the opportunity for seeking additional protections.

13 E. Depositions. Information disclosed at deposition may be designated as
14 “Attorneys’ Eyes Only” by either:

15 1. Indicating on the record at the deposition that the testimony is
16 “Attorneys’ Eyes Only” and subject to the provisions of this Protective Order. If a party
17 indicates at a deposition that the testimony to be elicited is “Attorneys’ Eyes Only,” then only
18 those persons allowed access to such information, defined herein at paragraph 6, may attend
19 that portion of the deposition when “Attorneys’ Eyes Only” testimony is being elicited, and
20 all other persons shall be excluded during that time, or

21 2. By notifying the opposing party in writing, within ten (10) calendar
22 days of the receipt of the transcript, of those pages and lines that are “Attorneys’ Eyes Only.”
23 No deposition may be read by anyone other than those person allowed access to “Attorneys
24 Eyes Only” information described and defined at paragraph 6 and the deponent during the ten
25 (10) day period. Upon being informed that certain portions of a deposition disclose

1 “Attorneys’ Eyes Only” information, each party must cause such portions of each copy in its
2 custody or control to be so marked immediately. Only those lines or pages of a deposition
3 transcript that contain “Attorneys’ Eyes Only” information may be designated as such, and
4 such portions of the deposition transcript should be bound separately when practicable.

5 3. Any court reporter who records testimony in this action at a deposition
6 shall be provided with a copy of this Protective Order by the party noticing the deposition.
7 That party shall advise the court reporter, before any testimony is taken, that all documents,
8 information, or testimony designated “Attorneys’ Eyes Only” are and shall remain
9 confidential and shall not be disclosed except as provided in this Protective Order. The
10 noticing party shall further advise the court reporter that copies of all transcripts, reporting
11 notes and all other records of any such testimony must be treated in accordance with this
12 Protective Order, delivered to attorneys of record, or filed under seal with the Court.

13 F. Location of “Attorneys’ Eyes Only” Documents. With the exception of the
14 uses provided for in this protective order, documents designated “Attorneys’ Eyes Only” may
15 be reviewed only in Counsels’ Offices by the persons identified in paragraph C. “Counsels’
16 Offices” means the offices of attorneys of record for the undersigned parties. With the
17 exception of the uses provided for in this protective order, documents designated “Attorneys’
18 Eyes Only” and copies thereof shall not leave Counsels’ Offices.

19 G. Review Of Own “Attorneys’ Eyes Only” Documents. The restrictions of this
20 order shall not apply to parties or nonparties, and their employees, attorneys, experts or other
21 authorized agents, when reviewing their own “Attorneys’ Eyes Only” documents.

22 H. Notice of Breach. It shall be the obligation of counsel, upon hearing of any
23 breach or threatened breach of this Order by any person, promptly to notify counsel for the
24 opposing and producing parties of such breach or threatened breach.

1 I. Violation of Protective Order. In the event anyone shall violate or threaten to
2 violate any terms of this Protective Order, the parties agree that the aggrieved party may
3 immediately apply to obtain injunctive relief against any such person violating or threatening
4 to violate any of the terms of this Protective Order, and in the event the aggrieved party shall
5 do so, the respondent person subject to the provisions of this Protective Order shall not
6 employ as a defense thereto the claim that the aggrieved party possesses an adequate remedy
7 at law. The party who must apply to the Court to enforce the provision of the Protective
8 order shall be entitled to an award of reasonable attorney fees and costs for such application.

9 J. Inadvertent Disclosure. Should any “Attorneys’ Eyes Only” documents be
10 disclosed, through inadvertence or otherwise, to any person or party not authorized under this
11 Protective Order, then the disclosing party not authorized under this Protective Order, then
12 the disclosing party shall (a) promptly inform such person of all the provisions of this
13 Protective Order; (b) identify such person immediately to the party that designated the
14 document “Attorneys’ Eyes Only”; (c) request that such person sign a document in the form
15 of Exhibit A; and (d) use its best efforts to bind such person to the terms of this Protective
16 Order, including, if necessary, promptly bringing a motion or other application to the Court
17 to bind such person to the terms of this Protective Order.

18 K. Continued Application of Court Jurisdiction. The parties and any other
19 persons subject to the terms of this Protective Order agree that the Court shall retain
20 jurisdiction over it and them for the purpose of enforcing this Protective Order and that the
21 laws of the State of Washington shall apply, including those laws regarding statutes of
22 limitations.

23 L. Use of “Attorneys’ Eyes Only” Documents in Court. Documents designated
24 “Attorneys’ Eyes Only,” and all information contained therein or derived therefrom, may be
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1 used, discussed, or offered in evidence at the trial of this case, or at any court hearing in this
2 litigation, provided that:

3 1. Sufficient advance notice is given to permit the designating party or
4 nonparty to seek additional protections or relief from the Court if desired; and

5 2. The “Attorneys’ Eyes Only” documents and information, and any
6 portion of any transcript or court paper where they are discussed or referred to, are stamped
7 “Attorneys’ Eyes Only” and separately filed under seal with the Clerk of the Court.

8 M. Litigation Use Only. All “Attorneys’ Eyes Only” documents produced in this
9 litigation, whether by a party or nonparty, and whether pursuant to Federal Rule of Civil
10 Procedure 34, subpoena, agreement or otherwise, and all information contained therein or
11 derived therefrom, shall be used solely for the preparation and trial of this action (including
12 any appeals and retrials), and may not be used for any other purpose, including business,
13 governmental or commercial, or any other administrative or judicial proceedings or actions.

14 N. Nontermination and Return of Documents. The provisions of this Order shall
15 continue to apply to all “Attorneys’ Eyes Only” documents and information after this action
16 has been terminated. Upon termination of this action, including all appeals, the parties shall
17 return all “Attorneys’ Eyes Only” documents to the producing party, as well as all copies,
18 extracts and summaries thereof, except that counsel for each party may maintain in its files
19 one copy of each pleading or other paper filed with the Court; alternatively, the parties and/or
20 any producing party may agree upon appropriate methods of destruction.

21 O. Other Non-Parties. Other persons may become a party to the Protective Order
22 without further action by the Court and be bound by the terms of this Protective Order by
23 agreeing to its terms and executing a document in the form of Exhibit A.

24 P. Additional Protection. This Protective Order shall be without prejudice to the
25 right of the parties to request additional protection under FRCP 26(c).

1 Q. Conclusion of Litigation. The restrictions on disclosure and use of distributor
2 customer lists and information obtained therefrom and any “Attorneys’ Eyes Only”
3 documents shall survive the conclusion of this action and the Court shall retain jurisdiction of
4 this action after its conclusion for the purpose of enforcing the terms of this Protective Order.

5 R. No Admissions. Nothing contained in this Order, nor any action taken in
6 compliance with it, shall:

7 1. Operate as an admission by any party that any particular document or
8 information is, or is not, “Attorneys’ Eyes Only”,

9 2. Operate as an admission by any party that any particular document or
10 information is, or is not, “Attorneys’ Eyes Only”,

11 S. Interim Protection. “Attorneys’ Eyes Only” documents produced by any party
12 or nonparty through discovery in this action prior to the entry of this Order by the Court shall
13 be subject to the provisions of this Order to the same extent as if the Order had been entered
14 by the Court, unless the Court otherwise directs.

15 T. Right to Challenge: Where any party believes that a document produced by
16 an opposing party, and which has been designated as “Attorneys’ Eyes Only”, is not properly
17 designated as a trade secret or other confidential business document, that party shall have the
18 right to apply to the Court for a determination as to whether the document should
19 appropriately be granted protected status under this protective order. In any such application
20 to the Court, the party designating material as “Attorneys’ Eyes Only” shall bear the initial
21 burden of showing the propriety of and need for the challenged designation.

22 SO ORDERED this ____ day of _____, 2007.

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25 HONORABLE ROBERT J. BRYAN
UNITED STATES DISTRICT COURT JUDGE

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PRESENTED BY:

HEURLIN, POTTER, JAHN,
LEATHAM & HOLTSMANN, P.S.

s/ Stephen G. Leatham
Stephen G. Leatham, WSBA #15572
Of Attorneys for Defendants

COPY RECEIVED; APPROVED AS TO FORM;
NOTICE OF PRESENTATION WAIVED:

RYLANDER & ASSOCIATES, P.C.

s/ Kurt M. Rylander
Kurt M Rylander, WSBA #27819
Of Attorneys for Plaintiff