

1 Joshua M. Henderson (SBN 197435)
2 **NORTON ROSE FULBRIGHT US LLP**
3 555 California Street, Suite 3300
4 San Francisco, CA 94104-1609
5 Telephone: (628) 231-6800
6 Facsimile: (628) 231-6799
7 josh.m.henderson@nortonrosefulbright.com

8 Gerald A. Stein
9 **NORTON ROSE FULBRIGHT US LLP**
10 1301 Avenue of the Americas
11 New York, New York 10019-6022
12 Telephone: (212) 318-3000
13 Facsimile: (212) 318-3400
14 gerald.stein@nortonrosefulbright.com

15 *Counsel for Non-Party PayPal Holdings, Inc.*

16
17
18
19
20
21
22
23
24
25
26
27
28

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION

15 UNITED STATES OF AMERICA,

16 *Plaintiff,*

17 v.

18 VISA INC. and PLAID INC.,

19 *Defendants.*

Case No.: 4:20-cv-07810-JSW

JOINT STIPULATION AND
[PROPOSED] MODIFICATION TO
PROTECTIVE ORDER

22 Pursuant to Paragraph 3 of the Joint Stipulation and [Proposed] Protective Order entered
23 on November 25, 2020 (Dkt. 49) (hereinafter “Protective Order”), Visa Inc. (“Visa”), Plaid Inc.
24 (“Plaid”), and PayPal Holdings, Inc. (“PayPal”) hereby stipulate to modify the Protective Order
25 as set forth below. The Court, upon good cause shown and pursuant to Fed. R. Civ. P. 26(c)(1),
26 **ORDERS** as follows:

Paragraph 8 is modified as follows:

The following terms are added to Paragraph 8 of the Protective Order:

With respect to PayPal: If a Defendant and PayPal cannot reach agreement on the objection within ten business days of the Defendant's written notice, the Defendant may address the dispute to this Court. The Defendant bears the burden of persuading the Court that the material is Confidential Information within the definition set forth in paragraph 1(b) or entitled to no confidentiality designation and, on a document-by-document basis, demonstrating a particularized need that outweighs the confidentiality interests of PayPal. The designated information shall be treated in accordance with its Confidential or Highly Confidential Information designation under this Order until the Court rules on the Defendant's timely filed motion. If the Defendant fails to move the Court in accordance with this Paragraph, or if the Court finds the designation of Confidential Information or Highly Confidential Information to have been appropriate, the challenge to the designation shall be considered rescinded, and the information shall maintain its designation.

Paragraph 9(i) is modified as follows:

Paragraph 9(i) of the Protective Order is deleted and replaced as follows:

(i) two in-house attorneys for each Defendant, not involved in business decisions, whose names shall be disclosed to the United States and to PayPal at least five business days prior to the effective date of such designation and who shall be agreed upon by the parties and PayPal or (in the absence of agreement) ordered by the Court, provided that the in-house attorneys shall first execute an Agreement Concerning Confidentiality in the form of Appendix A attached to the Protective Order. For purposes of this Paragraph, the phrase "involved in business decisions" shall not include the rendering of legal advice solely as to litigation, compliance, regulatory, or liability issues related to business decisions. However, the phrase "involved in business decisions" shall include rendering advice or decision-making that takes into account information regarding PayPal including

1 but not limited to such advice or decision-making regarding current and future agreements
2 and contracts (in whole or portions thereof), marketing, pricing, product or service
3 development, product or service offerings, licensing, and acquisition or enforcement of
4 intellectual property rights. To the extent a Defendant seeks to change the two-in house
5 attorneys that may receive access to Confidential Information, the Defendant must provide
6 notice to Plaintiff and PayPal at least 10 business days prior to the effective date of such
7 designation, and such designation shall be agreed upon by the parties and PayPal or (in the
8 absence of agreement) ordered by the Court, provided that the in-house attorneys shall
9 first execute an Agreement Concerning Confidentiality in the form of Appendix A
10 attached hereto. Without waiving any of its rights under this Paragraph, PayPal consents
11 to Plaid's designation of Elyse Whitehead as in-house counsel pursuant to the terms of
12 this Protective Order.

13
14 **Limitations**

15 The modifications set forth above do not modify in any way any other terms of the Protective Order.
16 The modifications are intended to be and are effective only as among PayPal, Visa, and Plaid, and
17 do not apply to any rights or obligations with respect to the United States or any other non-party to
18 this action.

SO STIPULATED:

/s/ Tara L. Reinhart

Jack P. DiCanio (SBN 138782)

Jack.DiCanio@Skadden.com

525 University Avenue, Suite 1400

Palo Alto, California 94301

Telephone: (650) 470-4500

Facsimile: (650) 470-4570

Steven C. Sunshine (pro hac vice)

Steven.Sunshine@Skadden.com

Tara L Reinhart (pro hac vice)

Tara.Reinhart@Skadden.com

Julia K. York (pro hac vice)

Julia.York@Skadden.com

Joseph Ciani-Dausch (pro hac vice)

Joseph.Ciani-Dausch@skadden.com

1440 New York Ave., N.W.

Washington, D.C. 20005

Telephone: (202) 371-700

Facsimile: (202) 393-5760

Karen Hoffman Lent (pro hac vice)

Karen.Lent@Skadden.com

One Manhattan West

New York, NY 10001-8602

Telephone: (212) 735-3000

Facsimile: (212) 735-2000

Counsel for Defendant Visa Inc.

1 WILSON SONSINI GOODRICH & ROSATI
2 Professional Corporation

3 /s/ Justina K. Sessions

4 Justina K. Sessions (SBN 270914)

5 jsessions@wsgr.com

6 Benjamin S. Labow (SBN 229443)

7 blabow@wsgr.com

8 One Market Plaza, Spear Tower, Suite 3300

9 San Francisco, California 94105

10 Telephone: (415) 947-2000

11 Facsimile: (415) 947-2099

12 Jonathan M. Jacobson (SBN 1350495)

13 jjacobson@wsgr.com

14 1301 Avenue of the Americas, 40th Floor

15 New York, New York 10019

16 Telephone: (212) 497-7758

17 Facsimile: (212) 999-5899

18 Scott A. Sher (SBN 190053)

19 ssher@wsgr.com

20 Michelle Yost Hale (pro hac vice)

21 mhale@wsgr.com

22 Robin S. Crauthers (pro hac vice)

23 rcrauthers@wsgr.com

24 Katie R. Glynn (SBN 300524)

25 kglynn@wsgr.com

26 1700 K Street NW, Fifth Floor

27 Washington, DC 20006

28 Telephone: (202) 973-8800

Facsimile: (202) 973-8899

Counsel for Defendant Plaid Inc.

1 Norton Rose Fulbright US LLP
2 /s/ Joshua M. Henderson
3 Joshua M. Henderson (SBN 197435)
4 555 California Street, Suite 3300
5 San Francisco, CA 94104-1609
6 Telephone: (628) 231-6800
7 Facsimile: (628) 231-6799
8 josh.m.henderson@nortonrosefulbright.com

9 Gerald A. Stein
10 Norton Rose Fulbright US LLP
11 1301 Avenue of the Americas
12 New York, New York 10019-6022
13 Telephone: (212) 318-3000
14 Facsimile: (212) 318-3400
15 gerald.stein@nortonrosefulbright.com

16 *Counsel for Non-Party PayPal Holdings, Inc.*

17 **IT SO ORDERED.**

18 Dated: December __, 2020

19 _____
20 HON. JEFFERY S. WHITE
21 United States District Judge

ATTORNEY ATTESTATION

I, Justina K Sessions, am the ECF user whose identification and password are being used to file the Joint Stipulation and Proposed Modification To Protective Order. Pursuant to Local Rule 5-l(i)(3), I hereby attest that all signatories listed hereto, and on whose behalf the filing is submitted, concur in this document's content and have authorized the filing of this document with the use of their electronic signature.

/s/ Justina K. Sessions
Justina K. Sessions