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**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA**

UNITED STATES OF AMERICA,

Plaintiff

v.

VISA INC. and PLAID INC.,

Defendants.

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

**JOINT STIPULATION AND
~~PROPOSED~~ DISCOVERY ORDER**

The Hon. Sallie Kim

Plaintiff United States of America and Defendants Visa, Inc. and Plaid Inc. hereby submit this JOINT STIPULATION AND [PROPOSED] DISCOVERY ORDER. The parties respectfully request that the Court adopt the non-disputed provisions of this Joint Stipulation and [Proposed] Order set forth below.

1 **I. EVIDENCE PRESERVATION**

2 The parties have reviewed the Guidelines Relating to the Discovery of Electronically
3 Stored Information and have met and conferred pursuant to Federal Rule of Civil Procedure 26(f)
4 regarding reasonable and proportionate steps taken to preserve evidence relevant to the issues
5 reasonable evidence in this action. The parties agree that the following categories of ESI need
6 not be preserved:

- 7 (1) documents sent solely between outside counsel for the Parties (or
8 persons employed by or acting on behalf of such counsel) or solely
9 between counsel of the United States (or persons employed by the
10 United States Department of Justice);
- 11 (2) voicemail messages, except in the case where they are contained within the
12 Parties' or Division's e-mail systems;
- 13 (3) e-mail or other electronic messages sent to or from a personal digital assistant or
14 smartphone (e.g., iPhone), provided that a copy of such e-mail or message is
15 routinely saved and preserved elsewhere for potential production in discovery;
- 16 (4) other electronic data stored on a personal digital assistant or smartphone, such as
17 calendar or contact data or notes, provided that a copy of such information is
18 routinely saved and preserved elsewhere for potential production in discovery;
- 19 (5) temporary or cache files, including Internet history, web browser cache, and
20 cookie files, wherever located; and
- 21 (6) server, system, or network logs.

22 **II. DISCLOSURES**

23 Defendants served initial disclosures under the Federal Rules of Civil Procedure 26(a)(1)
24 on November 27, 2020. The United States served initial disclosures on December 17, 2020,
25 fourteen days after the Parties' Rule 26(f) Conference, as required by Rule 26(a)(1)(C). Visa
26 shall supplement its initial disclosures to identify third parties no later than three days after
27 receipt of DOJ's Investigative File.

1 **III. DISCOVERY**

2 **A. Production of Documents and ESI**

3 The Parties shall produce all documents and Electronically Stored Information (ESI) in
4 accordance with the Department of Justice’s Standard Specifications for Production of ESI,
5 except when producing documents and ESI received from non-parties. Should either party issue
6 any document subpoena on non-parties, the instructions in that subpoena shall conform with the
7 above instructions on ESI.

8 **B. Proposed Discovery Plan**

9 The Parties have met and conferred regarding a proposed discovery plan and agree on the
10 following:

11 **1. Definitions**

12 For purposes of this Order, “Party” means the Antitrust Division of the U.S. Department
13 of Justice, Defendant Visa Inc, or Defendant Plaid Inc.

14 **2. Discovery of Confidential Information**

15 Discovery and production of confidential information will be governed by the Protective
16 Order entered by the Court in this action. When sending discovery requests, notices, and
17 subpoenas to non-parties, the Parties must include copies of any Protective Orders then in effect.

18 **3. Timely Service of Fact Discovery and Supplemental Discovery**

19 All discovery, including discovery served on non-parties, must be served in time to
20 permit completion of responses by the close of fact discovery, except that Supplemental
21 Discovery must be served in time to permit completion of responses by the close of
22 Supplemental Discovery. For purposes of this Order, “Supplemental Discovery” means
23 document and deposition discovery, including discovery served on non-parties, related to any
24 person identified on a side’s final trial witness list who was not identified on that side’s
25 preliminary trial witness list (including document and deposition discovery related to entities
26 related to any such person). Depositions that are part of Supplemental Discovery must be
27 noticed within 3 days of exchanging the final trial witness lists.
28

1 **4. Subpoenas**

2 A Party may serve a subpoena of the type described in Federal Rule of Civil Procedure
3 45(a)(4) upon serving the other Parties a notice and a copy of the subpoena. The Parties agree to
4 accept electronic service (by email) of a notice and copy of the subpoena.

5 **5. Written Discovery on Parties**

6 **a. Document Requests**

7 There is no pre-determined limit on the number of requests for the production of
8 documents that may be served by the Parties, but any requests must be proportional to the needs
9 of the case as required by Federal Rule of Civil Procedure 26(b)(1). The Parties must serve any
10 objections to requests for productions of documents within 7 business days after the requests are
11 served. Within 2 business days of service of any objections, the Parties must meet and confer to
12 attempt to resolve any objections and to agree on custodians to be searched. Responsive
13 productions (subject to any objections or custodian issues that have not been resolved) must be
14 made on a rolling basis and must begin no later than 21 days after service of the request for
15 production. The Parties must make good-faith efforts to complete responsive productions no
16 later than 28 days after service of the request for production, except for documents reasonably
17 withheld for privilege but later determined not to be privileged which will be produced 30 days
18 after the service of the request for production, and responsive productions must be completed no
19 later than 14 days after resolution of objections and custodian issues. Notwithstanding any other
20 part of this paragraph, in responding to requests for production of documents that are part of
21 Supplemental Discovery, the Parties must (i) serve any objections to such requests for production
22 of documents within 3 business days after the requests are served; (ii) make responsive
23 productions (subject to any objections or custodian issues that have not been resolved) on a
24 rolling basis; (iii) begin such productions no later than 7 days after the requests are served; and
25 (iv) complete such productions no later than 7 days after resolution of objections and custodian
26 issues.

1 **b. Data Requests**

2 In response to any requests for data or data compilations, the Parties will meet and confer
3 in good faith regarding the requests. Throughout the meet-and-confer process, the Parties will
4 work in good faith to complete production of data or data compilations no later than 28 days
5 after service of the requests for production.

6 **c. Interrogatories**

7 Interrogatories are limited to 10 (including discrete subparts) by the United States to each
8 Defendant and to 10 (including discrete subparts) by Defendants collectively to the United
9 States. The Parties must serve any objections to interrogatories within 7 business days after the
10 interrogatories are served. Within 2 business days of service of any objections, the Parties must
11 meet and confer to attempt to resolve the objections. The Parties must make good-faith efforts to
12 provide complete answers to interrogatories no later than 28 days after service of the
13 interrogatories.

14 **d. Requests for Admission**

15 Requests for admission are limited to 5 by the United States to each Defendant and to 5
16 by Defendants collectively to the United States. Requests for admission relating solely to the
17 authorship, authentication, or admissibility of documents, data, or other evidence (which are
18 issues that the Parties must attempt to resolve initially through negotiation) do not count against
19 these limits. Unless otherwise agreed, the Parties must respond in writing to requests for
20 admissions within 21 days after service.

21 **e. Internal Memoranda**

22 The Parties agree that neither the Defendants nor the United States must preserve or
23 produce in discovery internal memoranda that were not directly or indirectly furnished to any
24 non-Party authored by Defendants' outside counsel (or persons employed by or acting on behalf
25 of such counsel) or by counsel for the United States (or persons employed by the United States
26 Department of Justice). The Parties will neither request, nor seek to compel, production of any
27 interview notes, interview memoranda, or a recitation of information contained in such notes or
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1 memoranda, except for such material relied upon by a testifying expert and not produced in
2 compliance with Section VIII(C)(13).

3 **6. Written Discovery on Non-Parties**

4 Each party must serve a copy of any discovery request to a non-party on the other side at
5 the same time as the discovery request is served on the non-party. Every discovery request to a
6 non-party shall include a cover letter requesting that (a) the non-party Bates-stamp each
7 document with a production number and any applicable confidentiality designation prior to
8 producing it; and (b) the non-party provide to the other side copies of all productions at the same
9 time as they are produced to the requesting party. Each party requesting the discovery shall also
10 provide to the other side copies of all written correspondence with the non-party concerning the
11 non-party's response to or compliance with the discovery request (including any extensions,
12 postponements or modifications) within 48 hours of the correspondence. If a non-party fails to
13 provide copies of productions to the other side, the requesting Party shall provide copies to the
14 other Party, in the format the productions were received, within 3 business days after receipt of
15 such materials from the non-party. In addition, if a non-party produces documents or
16 electronically stored information that are not Bates-stamped, the Party receiving those materials
17 must produce to the other Parties a copy of such materials with Bates stamps within a timeframe
18 appropriate to the volume and complexity of the materials received.

19 **7. Depositions**

20 The United States is limited to 30 depositions of fact witnesses, and the Defendants
21 collectively are limited to 30 depositions of fact witnesses, including depositions taken for the
22 sole purpose of establishing the admissibility of documents produced by any Party or non-party.
23 Each deposition of a Party to be taken under Federal Rule of Civil Procedure 30(b)(6) counts as
24 one deposition, regardless of the number of witnesses produced to testify on the matters for
25 examination in that deposition. The following depositions do not count against the deposition
26 caps imposed by the preceding sentence: (a) depositions of any persons identified on a side's
27 preliminary or final trial witness list, if that witness has not already been deposed in this
28 litigation; (b) depositions of the Parties' designated expert witnesses; (c) depositions taken in

1 response to Civil Investigative Demands; and (d) depositions taken for the sole purpose of
2 establishing the location or authenticity of documents produced by any Party or non-party,
3 provided that such depositions may be noticed only after the Party taking the deposition has
4 taken reasonable steps to establish location, or authenticity through other means, and further
5 provided that such depositions must be designated at the time that they are noticed as being taken
6 for the sole purpose of establishing the location or authenticity of documents.

7 Parties will make witnesses available for deposition during fact discovery upon 14 days'
8 notice, but will in good faith use best efforts to schedule depositions within 7 days after receiving
9 notice. During supplemental discovery, Parties will make witnesses available for deposition
10 within 5 days after receiving notice, but will in good faith use best efforts to schedule depositions
11 within 3 days after receiving notice. During supplemental discovery, if a deposition is noticed
12 within 3 days of exchanging the final trial witness lists, Parties must make the witness available
13 for deposition no later than the close of supplemental discovery. In light of the COVID-19
14 pandemic, Parties will make their employees available for video depositions upon the request of
15 any Party. Parties agree that taking video depositions of third-party witnesses is appropriate.

16 If a Party serves on a non-party a subpoena for the production of documents or
17 electronically stored information and a subpoena commanding attendance at a deposition, the
18 Party serving those subpoenas must schedule the deposition for a date at least 10 business days
19 after the return date for the document subpoena. In the event that an opposing Party serves a
20 separate subpoena on the same non-party and causes the date of production for that second
21 document subpoena to result in fewer than 3 business days between that production date and the
22 date scheduled for that non-party's deposition, the originally noticing Party may at its sole
23 discretion postpone the date scheduled for the deposition for up to 3 business days following the
24 second production date.

25 Depositions of fact witnesses are limited to no more than one (7-hour) day unless
26 otherwise stipulated. During non-party depositions, the non-noticing side will receive at least
27 two hours of examination time. If a non-party deposition is noticed by both sides, then time will
28 be divided equally between the sides. Any time allotted to one side not used by that side in a

1 non-party deposition may not be used by the other side, unless the side that does not use all of its
2 allotted time agrees to allow the other side to use the remaining time. Notwithstanding any other
3 provisions in this paragraph, if the United States notices the deposition of a non-party (including
4 an employee of a non-party) to or with which a Defendant has made an offer, commitment, or
5 agreement (including an agreement to divest or license assets) to attempt to address the United
6 States' concerns about the Planned Transaction, then the United States will receive 7 hours of
7 examination time for the deposition. Any Party may further depose any person whose deposition
8 was taken pursuant to a Civil Investigative Demand, and the fact that such person's deposition
9 was taken pursuant to a Civil Investigative Demand may not be used as a basis for any Party to
10 object to that person's deposition. Depositions taken of Party witnesses pursuant to Civil
11 Investigative Demands will be deemed depositions taken pursuant to the Federal Rules of Civil
12 Procedure for the purposes of use at trial and subject to the same treatment under the Federal
13 Rules of Civil Procedure and Federal Rules of Evidence. Depositions taken of non-Party
14 witnesses pursuant to Civil Investigative Demands may not be used at trial except for
15 impeachment subject to the Federal Rules of Civil Procedure and Federal Rules of Evidence.

16 **8. Discovery from Agencies Within the Executive Branch**

17 Defendants may not seek discovery from any agency within the executive branch of the
18 federal government (including any employee of any such agency), other than the Department of
19 Justice and the Consumer Financial Protection Bureau ("CFPB"). From entry of this Order until
20 the conclusion of trial, Defendants may not submit requests under the Freedom of Information
21 Act to any agency within the executive branch of the federal government other than the
22 Department of Justice and CFPB for the purpose of assisting the defense of this litigation and
23 may not take any steps to obtain responses to previously submitted requests for the purpose of
24 assisting the defense of this litigation.

25 **10. Privilege Logs**

26 The Parties agree that the following privileged or otherwise protected communications
27 may be excluded from privilege logs: (1) documents or communications sent solely between
28 outside counsel for the Defendants (or persons employed by or acting on behalf of such counsel);

1 (2) documents or communications sent solely between counsel for the United States (or persons
2 employed by the United States Department of Justice); (3) documents or communications sent
3 solely between counsel for the United States (or persons employed by the United States
4 Department of Justice) and counsel for any state (or persons employed by any the office of the
5 attorney general of any state); (4) documents or communications sent solely between outside
6 counsel for either Defendant and inside counsel for either or both Defendants; (5) documents or
7 communications sent solely between counsel for the United States (or persons employed by the
8 United States Department of Justice); (6) privileged draft contracts; (7) draft regulatory filings;
9 (8) non-responsive, privileged documents attached to responsive documents; and (9) privileged
10 documents or communications solely about this litigation sent on or after November 5, 2020 (the
11 date the Complaint was filed) (a) between outside or inside counsel for the Defendants (or
12 persons employed by or acting on behalf of such counsel) and either or both Defendants; and (b)
13 between outside or inside counsel for a Defendant and employees of that Defendant. When non-
14 responsive, privileged documents that are attached to responsive documents are withheld from
15 production, however, the Parties will insert a placeholder to indicate a document has been
16 withheld from that family and that document must be logged in the Party's privilege
17 log. Privilege logs will comply with Fed. R. Civ. P. 26(b)(5).

18 **11. Inadvertent Production of Privileged or Work-Product Documents or**
19 **Information**

20 As authorized by Federal Rule of Evidence 502(d), the production of a document or
21 information subject to a claim of attorney-client privilege, work-product immunity, or any other
22 privilege or immunity under relevant federal case law and rules ("Produced Privileged Material")
23 does not waive any claim of privilege, work product, or any other ground for withholding
24 production to which the Party producing the documents or information otherwise would be
25 entitled, provided that (a) the production was inadvertent; (b) the Party producing the documents
26 or information used reasonable efforts to prevent the disclosure of documents or information
27 protected by the attorney-client privilege, work-product immunity, or any other privilege or
28

1 immunity; and (c) the Party producing the documents or information promptly took reasonable
2 steps to rectify the error, including following Federal Rule of Civil Procedure 26(b)(5)(B).

3 A Party or Person claiming privilege or other protections for Produced Privileged
4 Material must within three (3) days of learning of the production of such material notify in
5 writing any and all Receiving Parties that received the Produced Privileged Material and provide
6 sufficient information to the Receiving Party regarding the asserted privileges, in the form of a
7 privilege log as outlined in Rule 26(b)(5) of the Federal Rules of Civil Procedure. Alternatively,
8 if a Receiving Party discovers a document that it believes to be Produced Privileged Material, the
9 Receiving Party will promptly notify the Designating Party of what it believes to be the
10 Produced Privileged Material. No Receiving Party will be found in violation of this Order for
11 failing to recognize Produced Privileged Material.

12 After discovering or being notified of Produced Privileged Material, any Receiving Party
13 may not use or disclose the inadvertently Produced Privileged Material in any way until the
14 claim is resolved, and must take reasonable steps to retrieve the material if the Receiving Party
15 disclosed it before being notified of or discovering the inadvertent production. In addition,
16 within five (5) calendar days of discovering or being notified of Produced Privileged Material,
17 any Receiving Party must return, sequester, or destroy the specified material and any copies.
18 The Designating Party must retain a copy of the material until the resolution or termination of
19 this Action. A Party may move the Court for an order compelling production of the material and
20 present the information to the Court under seal for a determination of the claim. Any submission
21 of privileged material for *in camera* review shall not constitute a waiver of any applicable
22 material.

23 Nothing in this Order overrides any attorney's ethical responsibilities to refrain from
24 examining or disclosing materials that the attorney knows or reasonably should know to be
25 privileged and to inform that Party or Person that produced the materials of such occurrence.

26 This Order is not intended to impose on a Party a waiver of its rights to review its
27 documents for privilege or any other reason (including to identify non-responsive documents)
28 and the existence of this Order cannot be used to compel a Party to produce documents without

1 review. Moreover, this Order does not mean that the cost of review should not be considered in
2 whether any particular discovery is proportionate (i.e., that the benefit of the discovery is not as
3 great as the cost of said discovery including review).

4 **12. Presumptions of Authenticity**

5 Documents produced by Parties and non-parties from their own files will be presumed to
6 be authentic within the meaning of Federal Rule of Evidence 901. Any good-faith objection to a
7 document's authenticity must be provided with the exchange of other objections to intended trial
8 exhibits. If the opposing side serves a specific good-faith written objection to the document's
9 authenticity, the presumption of authenticity will no longer apply to that document and the
10 Parties will promptly meet and confer to attempt to resolve any objection.

11 **13. Expert Witness Disclosures and Depositions.**

12 Expert disclosures, including each side's expert reports, must be conducted in accordance
13 with the requirements of Federal Rule of Civil Procedure 26(a)(2) and 26(b)(4), except as
14 modified by this paragraph.

15 (a) Neither side must preserve or disclose, including in expert deposition testimony,
16 the following documents or information:

17 (i) any form of oral or written communications, correspondence, or work
18 product not relied upon by the expert in forming any opinions in his or her
19 final report shared between:

20 (A) the expert and any persons assisting the expert;

21 (B) any Party's counsel and its expert(s), or between any agent or
22 employee of Party's counsel and the Party's expert(s);

23 (C) testifying and non-testifying experts;

24 (D) non-testifying experts; or

25 (E) testifying experts;

26 (ii) expert's notes, except for notes of interviews participated in or conducted
27 by the expert, if the expert relied upon such notes in forming any opinions
28 in his or her final report;

- 1 (iii) drafts of expert reports, affidavits, or declarations; and
- 2 (iv) data formulations, data runs, data analyses, or any database-related
- 3 operations not relied upon by the expert in forming any opinions in his or
- 4 her final report.

5 (b) The Parties agree that the following materials will be disclosed at the same time
6 that each final expert report is served:

- 7 (i) A list by bates number of all documents relied upon by the testifying
- 8 expert(s) in forming any opinions in his or her final reports;
- 9 (ii) copies of all materials relied upon by the expert in forming any opinions in
- 10 his or her report that were not previously produced and that are not readily
- 11 available publicly;
- 12 (iii) a list of all publications authored by the expert in the previous 10 years;
- 13 (iv) copies of all publications authored by the expert in the previous 10 years
- 14 that are not readily available publicly;
- 15 (v) a list of all other cases in which, during the previous 4 years, the expert
- 16 testified at trial or by deposition, including tribunal and case number; and
- 17 (vi) for all calculations appearing in the final report(s), all data and programs
- 18 underlying the calculations, including all programs and codes necessary to
- 19 replicate the calculations from the initial (“raw”) data files, and the
- 20 intermediate working-data files that are generated from the raw data files
- 21 and used in performing the calculations appearing in the report and a
- 22 written explanation of why any observations in the raw data were either
- 23 excluded from the calculations or modified when used in the calculations.

24 Each expert will be deposed for only one (7-hour) day, with all 7 hours reserved for the
25 side noticing the expert’s deposition. Depositions of each side’s experts will be conducted only
26 after disclosure of all expert reports and all of the materials identified in Paragraph 13(b) for all
27 of that side’s experts.

1 **IV. SCHEDULE**

2 The following schedule was adopted by Judge White in his December 18 Order (Dkt. 64).

Event	Date
3 Defendant Visa to supplement Rule 26(a)(1) Initial Disclosures	3 days after receipt of Plaintiffs' Investigative File
4 Deadline to file dispositive motions	5 January 8, 2021
6 Parties exchange preliminary trial witness lists	7 January 19, 2021
8 Last day to hear dispositive motions	9 March 5, 2021
10 Parties exchange final trial witness lists	11 March 12, 2021
12 Close of fact discovery	13 March 17, 2021
14 Close of Supplemental Discovery	15 March 24, 2021
16 Parties serve Rule 26(a)(2)(B) initial expert witness disclosures that contain complete statements of all opinions the witness will express and the basis and reasons for those opinions	17 March 26, 2021
18 Parties serve Rule 26(a)(2)(D)(ii) expert witness disclosures that are intended solely to contradict or rebut evidence on the same subject matter identified by another Party under Rule 26(a)(2)(B)	19 April 12, 2021
20 Parties exchange exhibit lists and, opening deposition designations, and all interrogatories and requests for admission a Party intends to use in its case-in-chief.	21 April 23, 2021
22 Each Party informs each non-party of all documents produced by that non-party that are on that Party's exhibit list and all depositions of that non-party that have been designated by any Party.	23 April 23, 2021

Event	Date
Parties serve supplemental/rebuttal expert witness disclosures that are intended solely to contradict or rebut evidence on the same subject matter identified by another Party under Rule 26(a)(2)(D)(ii)	April 28, 2021
Each side exchanges its objections to the other side's exhibits, interrogatories, requests for admission, and opening deposition designations and its deposition counter-designations	April 30, 2021
Non-parties provide notice whether they object to the potential public disclosure at trial of any non-party documents and deposition designations included on the parties' exhibit lists, explain the basis for any such objections, and propose redactions where possible	April 30, 2021
Close of expert discovery	May 5, 2021
Motions <i>in limine</i> to be exchanged	May 7, 2021
Last day to hear <i>Daubert</i> motions	May 14, 2021
Parties and non-parties meet and confer regarding confidentiality of non-party documents on trial exhibit lists and non-party depositions	May 14, 2021
Parties meet and confer regarding admissibility of trial exhibits, interrogatories, requests for admission, and deposition designations	May 14, 2021
Parties meet and confer regarding disputes about confidentiality of Party documents on trial exhibit lists	May 14, 2021
Oppositions to motions <i>in limine</i> to be exchanged	May 18, 2021
Motions <i>in limine</i> and oppositions to be filed	May 24, 2021

Event	Date
Joint submission regarding disputes about admissibility of trial exhibits, deposition designations, interrogatories and requests for admission	May 24, 2021
Joint submission regarding disputes about confidentiality of Party documents on trial exhibit lists to be filed	May 24, 2021
Joint submissions regarding disputes about confidentiality of each non-party's documents on trial exhibit lists and non-party depositions to be filed	May 24, 2021
Joint Proposed Final Conference Order to be filed	May 24, 2021
Proposed Findings of Fact and Conclusions of Law to be filed	May 24, 2021
Pretrial briefs to be filed	May 24, 2021
Final pretrial conference	June 7, 2021
Parties submit hard copies of final trial exhibits to Court	June 24, 2021
Trial begins	June 28, 2021
Post-trial briefs to be filed	7 business days after trial concludes

V. OTHER MATTERS

A. Witness Lists.

The United States is limited to 30 persons on its preliminary trial witness list, and the Defendants collectively are limited to 30 persons on their preliminary trial witness list. The preliminary witness lists must include fact witnesses, and must provide the address, telephone number, and email address of each witness. The final witness lists must also include expert witnesses. The United States is limited to 25 persons on its final trial witness list, and the Defendants collectively are limited to 25 persons on their final trial witness list.

1 Each side's final trial witness list may identify no more than 5 witnesses that were not
2 identified on that side's preliminary trial witness list. Despite the limitation on the number of
3 depositions that each side may take, each side shall have the right to depose any witness on the
4 opposing side's preliminary or final witness list if that witness has not already been deposed in
5 this litigation, even if the limitation on depositions is exceeded. The final trial witness lists must
6 comply with Federal Rule of Civil Procedure 26(a)(3)(A)(i)–(ii), include both fact and expert
7 witnesses, and must include a brief summary of the subjects about which any expert witnesses
8 will testify.

9 In preparing preliminary trial witness lists and final trial witness lists, the Parties must
10 make good-faith attempts to identify the witnesses (including expert witnesses) whom they
11 expect that they may present as live witnesses at trial (other than solely for impeachment). No
12 Party may offer into evidence at trial any portion of a person's deposition testimony unless that
13 person was identified on that Party's final trial witness list. No Party may call a person to testify
14 as a live witness at trial (other than solely for impeachment) unless that person was identified on
15 that Party's final trial witness list.

16 **B. Completion of Planned Transaction.**

17 Defendants have agreed that they will not close, consummate, or otherwise complete the
18 Planned Transaction until 12:01 a.m. on the tenth day following the entry of the judgment by the
19 Court, and only if the Court enters an appealable order that does not prohibit consummation of
20 the transaction. For purposes of this Order, "Planned Transaction" means Visa's planned
21 acquisition of Plaid.

22 **C. Service of Pleadings and Discovery on Other Parties.**

23 Service of all pleadings, discovery requests (including subpoenas for testimony or
24 documents under Federal Rule of Civil Procedure 45), expert disclosures, and delivery of all
25 correspondence in this matter must be made by ECF or email, except when the volume of
26 attachments requires overnight delivery of the attachments or personal delivery, to the following
27 individuals designated by each Party:
28

1 **For Plaintiff United States of America:**

2 John R. Read (john.read@usdoj.gov)
3 Cory Brader Leuchten (cory.leuchten@usdoj.gov)
4 Meagan K. Bellshaw (meagan.bellshaw@usdoj.gov)
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10 **For Defendant Visa Inc.:**

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16 **For Defendant Plaid Inc.:**

17 Scott A. Sher (ssher@wsgr.com)
18 Justina Sessions (jsessions@wsgr.com)
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20 1700 K Street NW
21 Fifth Floor
22 Washington, DC 20006
23 Tel: (202) 973-8800

24 For purposes of calculating discovery response times under the Federal Rules of Civil
25 Procedure, electronic delivery at the time the email was received will be treated in the same
26 manner as hand delivery at that time. However, for any service other than service of court
27 filings, email service that is delivered after 5:00 p.m. Pacific Time will be treated as if it was
28 served the following business day.

D. Modification of Discovery Order

 Modifications of the rights and responsibilities of the Parties under this Order may be
 made by mutual agreement of the Parties, provided any such modification has no effect on the
 schedule for pretrial filings or trial dates. Otherwise, any Party may seek modification of this
 Order for good cause.

1 Dated: January 5, 2021

/s/ John R. Read
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8
9 Dated: January 5, 2021

/s/ Steven C. Sunshine
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15 Dated: January 5, 2021

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Attorneys for Defendant Plaid Inc.

21
22 IT SO ORDERED.

23
24 Dated: January 6, 2021


HONORABLE SALLIE KIM
United States Magistrate Judge

ATTORNEY ATTESTATION

I, Meagan K. Bellshaw, am the ECF user whose identification and password are being used to file the JOINT STIPULATION AND [PROPOSED] ORDER. In compliance with Local Rule 5-1(i)(3), I hereby attest that all signatories hereto concur in this filing.

/s/ Meagan K. Bellshaw
Meagan K. Bellshaw

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