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UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA

REBECCA BAMBERGER WORKS,  
LLC d/b/a BAM COMMUNICATIONS, a  
Delaware limited liability company;  
LLORENTE & CUENCA USA, INC., a  
Delaware corporation; and LLORENTE &  
CUENCA MADRID S.L., a foreign  
corporation,  
  
Plaintiffs,  
  
v.  
  
REBECCA BAMBERGER, an individual;  
RBW HOLDCO, INC., a California  
corporation; BAM BY BIG LLC, a  
California limited liability company; AND  
DOES 1 through 20,  
  
Defendants.

Case No.: 24-CV-706 JLS (DDL)

**ORDER GRANTING IN PART AND DENYING IN PART: (1) PLAINTIFFS’ EX PARTE APPLICATION FOR ISSUANCE OF TEMPORARY RESTRAINING ORDER, SEIZURE ORDER, ORDER TO SHOW CAUSE FOR PRELIMINARY INJUNCTION, ORDER FOR EXPEDITED DISCOVERY, AND PRESERVATION ORDER; AND (2) PLAINTIFFS’ EX PARTE MOTION TO FILE DOCUMENTS UNDER SEAL**

Presently before the Court is an *Ex Parte* Application for Issuance of Temporary Restraining Order, Seizure Order, Order to Show Cause for Preliminary Injunction, Order for Expedited Discovery, and Preservation Order (“Appl.”) filed by Plaintiffs Rebecca Bamberger Works, LLC (“BAM”), Llorente & Cuenca USA, Inc. (“LLYC USA”), and

1 Llorente & Cuenca Madrid S.L. (“LLYC Madrid”) (collectively, “Plaintiffs”). Plaintiffs  
2 accompany the Application with an *Ex Parte* Motion to File Documents Under Seal (“Seal  
3 Mot.”), and declarations by Luisa Garcia (“Garcia Decl.”), Todd Renner (“Renner Decl.”),  
4 and Gregory A. Nylen (“Nylen Decl.”). Having carefully considered Plaintiffs’ arguments,  
5 filings, and the law, the Court **GRANTS IN PART AND DENIES IN PART** Plaintiffs’  
6 Application and Plaintiffs’ Seal Motion.

## 7 **BACKGROUND**

8 Per the Complaint (“Compl.,” ECF No. 1), LLYC USA is a subsidiary of Llorente  
9 & Cuenca S.A., “a publicly traded global communications, digital marketing, and public  
10 affairs firm located in Spain.” Compl. ¶ 33.<sup>1</sup> LLYC Madrid—also affiliated with Llorente  
11 & Cuenca S.A.—own “trademark Registration No. 6,066,337 with the United States Patent  
12 and Trademark Office” for the mark “LLYC.” See *id.* ¶ 53.

13 BAM is a San-Diego-based public relations and marketing company that works with  
14 venture capital brands and venture-backed start-ups. *Id.* ¶¶ 10, 25. Since 2006, BAM has  
15 used the mark “BAM” in connection with its services. *Id.* ¶ 26

16 In March of 2023, LLYC USA acquired 80% of BAM’s equity from BAM Chief  
17 Executive Officer (“CEO”) (and Defendant) Rebecca Bamberger (“Bamberger”). *Id.* ¶¶ 1,  
18 34. Bamberger’s corporation—Defendant RBW Holdco, Inc. (“RBW”)—retained a 20%  
19 stake in BAM. See *id.* ¶ 35. As part of the purchase, RBW and Bamberger agreed to  
20 comply with a series of restrictive covenants. *Id.* ¶¶ 38–39. Bamberger also agreed to stay  
21 on as CEO subject to an employment agreement. *Id.* Finally, BAM, LLYC USA, RBW,  
22 and Bamberger executed an operating agreement stating that BAM would be operated by  
23 a three-member board. *Id.* ¶¶ 40–41. The board would include Bamberger and two LLYC  
24 representatives. *Id.*

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28 <sup>1</sup> As Plaintiffs have requested that the Garcia Declaration be filed under seal, the Court refers to allegations  
in the unsealed Complaint rather than facts averred in the Garcia Declaration.

1 After the purchase, LLYC USA incorporated the LLYC Mark into the BAM  
2 branding to create a new mark: “BAM by LLYC.” *Id.* ¶ 52. BAM used this mark in its  
3 “digital footprint and documents.” *Id.*

4 Beginning in late 2023, however, relations soured between Bamberger and LLYC  
5 USA. The issues began when LLYC USA sought to transition BAM’s bank account from  
6 Chase Bank to HSBC. *Id.* ¶ 59–60. Rather than transition the funds as ordered by the  
7 board, however, Bamberger withdrew hundreds of thousands of dollars from BAM’s  
8 account. *Id.* ¶¶ 67–71, 79–81. At least some of these funds were transferred to  
9 Bamberger’s personal account. *Id.*

10 Around the same time, Bamberger created two California companies—VC Comms  
11 Con LLC and Big Magical Events LLC. *Id.* ¶ 82. BAM performed at least \$252,000 worth  
12 of services for these companies. *Id.* ¶¶ 85–86. Bamberger then dissolved both companies  
13 in February of 2024, and neither company has paid BAM. *Id.* ¶¶ 88–91.

14 BAM’s board members pressured Bamberger to explain these actions across  
15 multiple meetings between February 14 and April 1, 2024. *Id.* ¶¶ 72–78, 92–100.  
16 Bamberger assured the board she would resolve the issues, but nevertheless continued to  
17 transfer funds from BAM’s account to her personal account until at least March 14. *See*  
18 *id.* ¶¶ 72–100.

19 Separately from these suspect transactions, Bamberger began working on a plan to  
20 take back BAM from LLYC USA. Bamberger first informed the board’s chairman that  
21 she wanted to “end LLYC’s equity interest in BAM” on December 3, 2023. *Id.* ¶ 63. BAM  
22 responded that “there was no basis for a unilateral termination of LLYC’s interest in  
23 BAM.” *Id.* ¶ 65. Undeterred, Bamberger—through counsel—sent a March 5, 2024 letter  
24 to BAM stating that she was “interested in unwinding the acquisition of BAM by LLYC.”  
25 *Id.* ¶ 101. BAM responded on March 15, stating that the “[b]oard had ultimate discretion  
26 with regard to the operation of [BAM],” *id.* ¶ 102, and Bamberger replied that “every  
27 member at BAM [was] aware of th[e] coming transition and [they] ha[d] started a detailed  
28 change management plan internally,” *id.* ¶ 103 (alterations in original). BAM’s board then

1 told Bamberger that until they received a proposal regarding a potential repurchase,  
2 Bamberger should not implement any changes to BAM or inform BAM employees of any  
3 change in ownership. *Id.* ¶ 104.

4 The board’s warning came too late. Bamberger created—and shared among BAM  
5 employees—an internal document mapping out a transition away from LLYC USA. *Id.*  
6 ¶ 117. As part of this plan, Bamberger formed Defendant BAM by BIG LLC (“BIG”). *Id.*  
7 ¶ 114. She also registered a new domain name and created a webpage that “copied BAM’s  
8 website word for word.” *Id.* ¶¶ 115, 139. Then, in mid-March of 2024, Bamberger  
9 executed the transition. Working with BAM employees, she (1) redirected all traffic from  
10 BAM’s website to BIG’s website, (2) transferred BAM’s internal documents and client  
11 files to BIG’s new Google Drive, (3) emailed clients to inform them that BAM was ending  
12 its relationship with LLYC, and (4) sent new invoices with BIG’s bank information to  
13 clients and directed them to ignore old invoices from BAM. *Id.* ¶¶ 117–149. BIG’s website  
14 retains the “BAM by LLYC” mark. *See id.* ¶ 113.

15 Plaintiffs discovered Bamberger’s efforts on April 4, 2024, when one of BAM’s  
16 clients contacted LLYC USA to inquire about a duplicate invoice it received from BIG.  
17 *Id.* ¶ 109. This email “made it clear to BAM, the [b]oard, and LLYC [USA] . . . that  
18 Bamberger was in the process of completely decimating BAM by stealing clients and  
19 redirecting payments away from BAM.” *Id.* ¶ 151.

20 Plaintiffs filed this action on April 19, 2024, asserting, among other causes of action,  
21 misappropriation of trade secrets, conversion, fraud, breach of contract, and trademark  
22 infringement. *See generally* Compl. The instant Application and Seal Motion followed  
23 one week later.

## 24 APPLICATION

### 25 I. Temporary Restraining Order

#### 26 A. *Legal Standard*

27 Federal Rule of Civil Procedure 65(b) governs the issuance of a temporary  
28 restraining order (“TRO”). The standard for a TRO is identical to the standard for a

1 preliminary injunction. *Frontline Med. Assocs., Inc. v. Coventry Healthcare Worker’s*  
2 *Comp., Inc.*, 620 F. Supp. 2d 1109, 1110 (C.D. Cal. 2009). A plaintiff seeking preliminary  
3 injunctive relief must establish “[1] that he is likely to succeed on the merits, [2] that he is  
4 likely to suffer irreparable harm in the absence of preliminary relief, [3] that the balance of  
5 equities tips in his favor, and [4] that an injunction is in the public interest.” *Winter v. Nat.*  
6 *Res. Def. Council, Inc.*, 555 U.S. 7, 20 (2008). Injunctive relief is “an extraordinary remedy  
7 that may only be awarded upon a clear showing that the plaintiff is entitled to such relief”  
8 and is “never awarded as of right.” *Id.* at 22, 24.

9       When a plaintiff has not provided notice of their TRO application to the defendant,  
10 Federal Rule of Civil Procedure 65(b)(1) imposes additional requirements. Namely:

11               The court may issue a temporary restraining order without  
12               written or oral notice to the adverse party or its attorney only if:  
13               (A) specific facts in an affidavit or a verified complaint clearly  
14               show that immediate and irreparable injury, loss, or damage will  
15               result to the movant before the adverse party can be heard in  
16               opposition; and (B) the movant’s attorney certifies in writing any  
              efforts made to give notice and the reasons why it should not be  
              required.

17 Fed. R. Civ. P. 65(b)(1). “The stringent restrictions imposed . . . by Rule 65[] on the  
18 availability of *ex parte* temporary restraining orders reflect the fact that our entire  
19 jurisprudence runs counter to the notion of court action taken before reasonable notice and  
20 an opportunity to be heard has been granted both sides of a dispute.” *Granny Goose Foods,*  
21 *Inc. v. Bhd. of Teamsters*, 415 U.S. 423, 438–39 (1974) (footnote omitted).

22       “Courts have [thus] recognized very few circumstances justifying the issuance of an  
23 *ex parte* TRO.” *Reno Air Racing Ass’n v. McCord*, 452 F.3d 1126, 1131 (9th Cir. 2006).  
24 “For example, an *ex parte* TRO may be appropriate ‘where notice to the adverse party is  
25 impossible either because the identity of the adverse party is unknown or because a known  
26 party cannot be located in time for a hearing.’” *Id.* (quoting *Am. Can Co. v. Mansukhani*,  
27 742 F.2d 314, 322 (7th Cir. 1984)). Alternatively, “[i]n cases where notice could have  
28 been given to the adverse party, courts have recognized ‘a very narrow band of cases in

1 which *ex parte* orders are proper because notice to the defendant would render fruitless the  
2 further prosecution of the action.” *Id.* (quoting *Am. Can Co.*, 742 F.3d at 322). In  
3 trademark infringement cases, these include situations “where an alleged infringer is likely  
4 to dispose of the infringing goods before the hearing.” *Id.*

5 ***B. Discussion***

6 Plaintiffs suggest the Court should grant the Application without notice because if  
7 Defendants receive notice of the Application, Defendants “will not think twice before  
8 moving, hiding, and/or destroying evidence.” Appl. at 32; *see also id.* at 12.

9 Plaintiffs have made an insufficient showing to prevail on this argument. “To justify  
10 an *ex parte* proceeding [on destruction of evidence grounds], “the applicant must do more  
11 than assert that the adverse party would dispose of evidence if given notice.” *Reno Air*,  
12 452 F.3d at 1131 (internal quotation marks omitted) (quoting *First Tech. Safety Sys., Inc.*  
13 *v. Depinet*, 11 F.3d 641, 650 (6th Cir. 1993)). Instead, “[p]laintiffs must show that  
14 defendants would have disregarded a direct court order and disposed of the goods within  
15 the time it would take for a hearing . . . [and] must support such assertions by showing that  
16 the adverse party has a history of disposing of evidence or violating court orders or that  
17 persons similar to the adverse party have such a history.” *Id.* (first alteration added and  
18 internal quotation marks omitted) (quoting *Depinet*, 11 F.3d at 650–51).

19 Plaintiffs offer only a sparse, seemingly boilerplate declaration from their attorney  
20 Gregory Nylén, who avers that “in [his] experience in working with trademark clients and  
21 litigation with infringers, *ex parte* seizure is the only way to ensure that goods and services,  
22 including websites bearing a counterfeit mark . . . are preserved for use in the legal action.”  
23 Nylén Decl. ¶ 11. The Ninth Circuit, however, rejected a near-identical statement in *Reno*  
24 *Air*. 452 F.3d at 1132. So too have multiple district courts. *See, e.g., Acushnet Co. v. Yoo*,  
25 No. 13CV2632-MMA (NLS), 2013 WL 12100800, at \*3–4 (S.D. Cal. Nov. 1, 2013);  
26 *FitTrack Inc. v. Hyperzoo Tech. Ltd.*, No. 23-CV-536 TWR (NLS), 2023 WL 2705844, at  
27 \*3 (S.D. Cal. Mar. 29, 2023).

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1 In an apparent attempt to bolster the above statement, Nylen also cites several  
2 trademark cases where courts have granted *ex parte* temporary restraining orders. Nylen  
3 Decl. ¶ 12. “Apart from the fact that Defendants are also alleged trademark infringers,”  
4 however, “Plaintiff[s] ha[ve] not established any reasonable similarity between the  
5 parties.” *Acushnet Co.*, 2013 WL 12100800, at \*3. This is not a case involving numerous,  
6 amorphous ecommerce sellers, fungible products, or uncertain actors. Instead, this case  
7 involves a marketing CEO who has resided and worked in San Diego for many years. *See*  
8 Compl. ¶¶ 10, 12. Plaintiffs have not sufficiently established that Bamberger *specifically*,  
9 or persons similar to Bamberger, have a history of destroying evidence.

10 Moreover, Plaintiffs’ own submissions undercut their argument that the risk of  
11 destruction of evidence requires *ex parte* relief. First, Plaintiffs’ digital consultant indicates  
12 that he has already preserved copies of BIG’s allegedly infringing website and online  
13 drive—presumably, much of the very evidence Plaintiffs fear will be destroyed. *See*  
14 Renner Decl. ¶¶ 11–20; *see also Rovio Ent. Ltd. v. Royal Plush Toys, Inc.*, 907 F. Supp. 2d  
15 1086, 1097 n.7 (N.D. Cal. 2012) (rejecting *ex parte* TRO in part because the plaintiff had  
16 already conducted an extensive investigation and preserved substantial evidence of  
17 infringement). Second, Plaintiffs have already filed proof of service with respect to at least  
18 some Defendants. *See* ECF No. 4. If the aim was to prevent destruction of evidence by  
19 hiding this case from Defendants until said evidence was in safe hands, that ship has sailed.

20 The Court therefore **DENIES** Plaintiffs’ Application for an *Ex Parte* TRO.

## 21 **II. Seizure Order**

22 Plaintiffs next seek “an *ex parte* seizure pursuant to 15 U.S.C. § 1116(d).” Appl. at  
23 31. This statute allows an order of seizure to issue if the court determines, among other  
24 required findings, that “the person against whom seizure would be ordered, or persons  
25 acting in concert with such a person, would destroy, move, hide, or otherwise make [the  
26 matter to be seized] inaccessible to the court, if the applicant were to proceed on notice to  
27 such person.” *Id.* § 1116(d)(4)(B)(vii). The fundamental inquiry under this section is as  
28 follows: “Could the defendants be trusted to comply with the order of a Federal District

1 Court?” *See Lorillard Tobacco Co. v. Bisan Food Corp.*, 377 F.3d 313, 320 (3d Cir. 2004).

2 Where courts in this Circuit have refused to grant TROs without notice to  
3 defendants, they have also refused to grant *ex parte* seizure orders. The logic underlying  
4 this approach is straightforward—if a plaintiff failed to show a sufficient risk of destruction  
5 of evidence to justify an *ex parte* TRO, they have necessarily failed to make the more  
6 intensive showing necessary to justify a seizure order. *See, e.g., Acushnet Co.*, 2013 WL  
7 12100800, at \*5. Here, as Plaintiffs have failed to justify an *ex parte* TRO on destruction-  
8 of-evidence grounds, an *ex parte* seizure order may not issue.

### 9 **III. Order for Expedited Discovery**

#### 10 **A. Legal Standard**

11 Courts may allow expedited discovery prior to a Rule 26(f) discovery conference for  
12 good cause, *i.e.*, where “the need for expedited discovery, in consideration of the  
13 administration of justice, outweighs the prejudice to the responding party.” *Semitoool, Inc.*  
14 *v. Tokyo Electron Am., Inc.*, 208 F.R.D. 273, 276 (N.D. Cal. 2002). “In determining  
15 whether good cause exists . . . , courts look at the following factors: ‘(1) whether a  
16 preliminary injunction is pending; (2) the breadth of the discovery requests; (3) the purpose  
17 for requesting the expedited discovery; (4) the burden on the [party opposing expedited  
18 discovery] to comply with the requests; and (5) how far in advance of the typical discovery  
19 process the request was made.’” *FitTrack Inc.*, 2023 WL 2705844, at \*4 (first alteration  
20 added) (quoting *NobelBiz, Inc. v. Wesson*, No. 14CV0832-W (JLB), 2014 WL 1588715, at  
21 \*1 (S.D. Cal. Apr. 18, 2014)). Though “good cause is frequently found in cases involving  
22 claims of infringement,” expedited discovery is not appropriate in every infringement case.  
23 *Semitoool, Inc.*, 208 F.R.D. at 276–277.

#### 24 **B. Discussion**

25 Plaintiffs seek expedited discovery to “identify third parties acting in concert with  
26 Defendants to infringe on Plaintiffs’ rights.” Appl. at 36. They also suggest that they must  
27 act “without delay” to identify Defendants’ “sources of equipment and devices containing  
28 or storing the counterfeit BAM Mark and LLYC Mark.” *Id.*



1           Though the Court is mindful of Plaintiffs’ allegations of ongoing harm, the Court is  
2 again left with the distinct impression that Plaintiffs have submitted a boilerplate request  
3 ill-tailored to the peculiar circumstances of this case. This is not a case where an unknown  
4 network of manufacturers, distributors, and sellers are flooding the market with knock-off  
5 products. Instead, this case involves a CEO leading the employees of a company in an  
6 alleged revolt against the company’s majority owner.

7           The Court finds *Rovio*’s analysis instructive. Here, as in *Rovio*, Plaintiffs have  
8 “made no showing that a reasonable basis exists to conclude that there are other individuals  
9 or entities involved in the counterfeiting scheme.” 907 F. Supp. 2d at 1100. Relatedly,  
10 “Plaintiff[s] ha[ve] ascertained the identities of the entities and the individual allegedly  
11 responsible for the conduct it seeks to enjoin,” have amassed evidence related to the alleged  
12 infringement, and “ha[ve] not articulated any specific missing evidence essential for  
13 injunctive relief.” *Id.*; *see also* Appl. Exs. A–C. Finally, the breadth of Plaintiffs’  
14 discovery request weighs against granting expedited discovery. *See Rovio*, 907 F. Supp.  
15 2d at 1110. While courts have authorized expedited discovery where plaintiffs seek narrow  
16 categories of documents or information, *see Semitool, Inc.*, 208 F.R.D. 2 at 277, courts are  
17 leery to grant what Plaintiffs here seek—wholesale permission to begin propounding  
18 document requests and scheduling depositions. *See FitTrack Inc.*, 2023 WL 2705844, at  
19 \*4; *Rovio*, 907 F. Supp. 2d at 1100.

20           At this early stage, therefore, Plaintiffs have not shown good cause for expedited  
21 discovery prior to a hearing on a preliminary injunction. The Court will thus **DENY**  
22 **WITHOUT PREJUDICE** Plaintiffs’ request for expedited discovery. If Plaintiffs  
23 believes expedited discovery remains necessary, Plaintiffs may file a more narrowly  
24 tailored request.

25           ***D. Order to Show Cause and Preservation Order***

26           Where courts have denied *ex parte* TROs and seizure orders, they have (1) swiftly  
27 scheduled a hearing on a preliminary injunction and (2) issued evidence preservation orders  
28 to assuage plaintiffs’ concerns regarding the destruction of evidence. *See, e.g., id.*;

1 *Acushnet Co.*, 2013 WL 12100800, at \*5. Accordingly, the Court **GRANTS** Plaintiffs’  
2 Application to the extent it seeks (1) an order to show cause why a preliminary injunction  
3 should not issue and (2) an evidence preservation order. The Court will set a briefing  
4 schedule and hearing date in the conclusion of this Order.

## 5 **SEAL MOTION**

### 6 **I. Legal Standard**

7 “[T]he courts of this country recognize a general right to inspect and copy public  
8 records and documents, including judicial records and documents.” *Nixon v. Warner*  
9 *Commc’ns, Inc.*, 435 U.S. 589, 597 (1978) (footnote omitted). “Unless a particular court  
10 record is one ‘traditionally kept secret,’ a ‘strong presumption in favor of access’ is the  
11 starting point.” *Kamakana v. City & Cnty. of Honolulu*, 447 F.3d 1172, 1178 (9th Cir.  
12 2006) (quoting *Foltz v. State Farm Mut. Auto. Ins. Co.*, 331 F.3d 1122, 1135 (9th Cir.  
13 2003)). “The presumption of access is ‘based on the need for federal courts, although  
14 independent—indeed, particularly because they are independent—to have a measure of  
15 accountability and for the public to have confidence in the administration of justice.’” *Ctr.*  
16 *for Auto Safety v. Chrysler Grp., LLC*, 809 F.3d 1092, 1096 (9th Cir. 2016) (quoting *United*  
17 *States v. Amodeo*, 71 F.3d 1044, 1048 (2d Cir. 1995)).

18 A party seeking to seal a judicial record bears the burden of overcoming this strong  
19 presumption of access. *Kamakana*, 447 F.3d at 1178 (citing *Foltz*, 331 F.3d at 1135). The  
20 showing required to meet this burden depends upon whether the documents to be sealed  
21 relate to a motion that is “more than tangentially related to the merits of the case.” *Ctr. for*  
22 *Auto Safety*, 809 F.3d at 1102. When the underlying motion is more than tangentially  
23 related to the merits, the “compelling reasons” standard applies. *Id.* When the underlying  
24 motion does not surpass the tangential relevance threshold, the “good cause” standard  
25 applies instead. *Id.* at 1096–99.

26 As relevant here, the “compelling reasons” standard typically applies to motions for  
27 preliminary injunctions and temporary restraining orders. *See id.* at 1099. “In general,  
28 ‘compelling reasons’ sufficient to outweigh the public’s interest in disclosure and justify

1 sealing court records exist when such ‘court files might have become a vehicle for improper  
2 purposes,’ such as the use of records to gratify private spite, promote public scandal,  
3 circulate libelous statements, or release trade secrets.” *Kamakana*, 447 F.3d at 1179  
4 (quoting *Nixon*, 435 U.S. at 598). However, “[t]he mere fact that the production of records  
5 may lead to a litigant’s embarrassment, incrimination, or exposure to further litigation will  
6 not, without more, compel the court to seal its records.” *Id.* (citing *Foltz*, 331 F.3d at 1136).

7 Under the “compelling reasons” standard, the party seeking protection must “present  
8 ‘articulable facts’ identifying the interests favoring continued secrecy *and* . . . show that  
9 these specific interests overc[o]me the presumption of access by outweighing the ‘public  
10 interest in understanding the judicial process.’” *Id.* at 1181 (citation omitted) (first quoting  
11 *Foltz*, 331 F.3d at 1136; and then quoting *Hagestad v. Tragesser*, 49 F.3d 1430, 1434 (9th  
12 Cir. 1995)). “The movant must make this required particularized showing for each  
13 document it seeks to seal.” *Avnet, Inc. v. Avana Techs. Inc.*, No. 2:13-CV-00929-GMN,  
14 2014 WL 4181831, at \*1 (D. Nev. Aug. 20, 2014) (citing *San Jose Mercury News, Inc. v.*  
15 *U.S. Dist. Ct.*, 187 F.3d 1096, 1100 (9th Cir. 1999)). And if the movant wishes to seal an  
16 entire document, they must show that their compelling interest cannot be protected by  
17 redacting only the sensitive portions of said document. *See In re Roman Cath. Archbishop*,  
18 661 F.3d 417, 425 (9th Cir. 2011); *Foltz*, 331 F.3d at 1137.

19 The decision to seal documents is “one best left to the sound discretion of the trial  
20 court” upon consideration of “the relevant facts and circumstances of the particular case.”  
21 *Nixon*, 435 U.S. at 599.

## 22 **II. Discussion**

23 Plaintiffs first point out that 15 U.S.C. § 1116(d)(8) requires that “a[ seizure] order  
24 under this subsection, together with the supporting documents, shall be sealed until the  
25 person against whom the order is directed has an opportunity to contest such order.”  
26 Courts, however, routinely unseal case files after denying plaintiffs’ requests for seizure  
27 orders. *See Rovio*, 907 F. Supp. 2d at 1101; *Acushnet Co.*, 2013 WL 12100800, at \*5. As  
28 the Court has determined that a seizure order is not justified, the Court declines to seal the

1 Application on that ground.

2 Plaintiffs next request to file the Garcia and Renner Declarations (Exhibits A and B  
3 of the Application) under seal. Plaintiffs point out that these declarations contain sensitive  
4 and confidential business information, including BAM’s “business strategies, third-party  
5 outreach, business relationships, client lists, sales strategies, and financial information.”  
6 Seal Mot. at 5. In support, Plaintiffs point to select exhibits associated with the  
7 declarations: Exhibits 7, 9, 10, 14, 15, 17, 18, 19, 20, and 21 of the Garcia Declaration and  
8 Exhibits 3 and 4 of the Renner Declaration. *Id.*

9 Plaintiffs are correct that sensitive business information, including “customer  
10 names,” “internal documents,” “business plans,” and “financial records” may be filed  
11 under seal. *See, e.g., Apex.AI, Inc. v. Langmead*, No. 5:23-CV-02230-BLF, 2023 WL  
12 4157629, at \*2 (N.D. Cal. June 23, 2023). However, requests to seal must be narrowly  
13 tailored—a party may not seek to seal an entire document where redaction would suffice.  
14 *See id.* at \*1 (granting a request to seal where the moving party, rather than seek to seal  
15 declarations in their entirety, identified specific paragraphs and exhibits that should be  
16 sealed); *see also In re Roman Cath. Archbishop*, 661 F.3d at 425.

17 The Court is persuaded that *select portions* of the Garcia and Renner Declarations  
18 should be filed under seal. *See, e.g., Garcia Decl. Ex. 17* (containing a list of select BAM  
19 clients). The Court also recognizes, however, that large portions of the Declarations  
20 contain information for which sealing is not justified.<sup>2</sup> And, as it is Plaintiffs’ burden to  
21 offer compelling reasons to seal each *portion* of documents they believe should be sealed,  
22 the Court will not parse the Declarations on Plaintiffs’ behalf.

23 The Court will instead take the following approach. The Court will allow Plaintiffs  
24 to file the Application, the Seal Motion, and all associated material—including the Garcia  
25 and Renner Declarations—under seal *for now*. By the date of the preliminary injunction  
26

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27  
28 <sup>2</sup> Much of the Garcia Declaration, for instance, parrots allegations contained within the unsealed  
Complaint.

1 hearing, Plaintiffs **MAY FILE** a renewed motion to seal that identifies specific portions of  
2 the Declarations and/or Application that should be sealed and offers compelling reasons to  
3 seal each identified portion. Plaintiffs **SHALL** accompany said motion with a copy of the  
4 Application and Declarations that includes Plaintiffs' proposed redactions. If Plaintiffs do  
5 not file such a motion, the Court will order the Application and all associated documents  
6 unsealed in their entirety.

### 7 **CONCLUSION**

8 In light of the foregoing, the Court **ORDERS** as follows:

9 1. Plaintiffs' request for an *ex parte* TRO is **DENIED**.  
10 2. Plaintiffs' request for an *ex parte* seizure order is **DENIED**.  
11 3. Plaintiffs' request for expedited discovery is **DENIED WITHOUT**  
12 **PREJUDICE**.

13 4. Plaintiffs' request for an order to show cause why a preliminary injunction  
14 should not issue is **GRANTED**. The Court will construe Plaintiffs' Application—only to  
15 the extent it seeks a TRO—as a motion for a preliminary injunction. Plaintiffs **SHALL**  
16 **SERVE** Defendants with the summons, Complaint, Application, and all other documents  
17 filed in this case, including this Order, within two (2) days of the date this Order is filed.  
18 Plaintiffs **SHALL FILE** proofs of service with the Court and submit a new proposed order  
19 to the Court via email by Friday, May 3, 2024. Defendants **SHALL FILE** any opposition  
20 by Wednesday, May 8, 2024. Plaintiffs **MAY FILE** any reply by Friday, May 10, 2024.  
21 The Court warns the parties that a failure to oppose any motion may constitute consent to  
22 granting the motion under Civil Local Rule 7.1(f)(3)(c).

23 5. A hearing on Plaintiffs' motion for a preliminary injunction is **SET** for  
24 Thursday, May 16, 2024, at 1:30 p.m. in Courtroom 4D of the Edward J. Schwartz United  
25 States Courthouse, 221 West Broadway, San Diego, CA, 92101.

26 6. The Court **ORDERS** Defendants to take reasonable steps to preserve any  
27 records, documents, communications, or stored information, regardless of medium, either  
28 (1) using/containing the BAM by LLYC, LLYC, and BAM marks, or a substantially

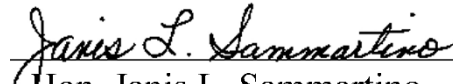
1 similar mark; or (2) relating to the advertising, promoting, marketing, offering for sale,  
2 distributing, or collecting accounts receivable for services associated with said marks or  
3 substantially similar marks. The Court further **ORDERS** Defendants to take reasonable  
4 steps to preserve any records, documents, communications, or stored information,  
5 regardless of medium, either (1) using/containing BAM's confidential and proprietary  
6 information or trade secrets; or (2) relating to the advertising, promoting, marketing,  
7 offering for sale, distributing, or collecting accounts receivable for services offered using  
8 said confidential or proprietary information or trade secrets.

9 7. The Clerk of the Court **SHALL FILE** the Application, the Seal Motion, and  
10 all associated declarations and exhibits under seal. On or before Thursday, May 16, 2024,  
11 Plaintiffs **MAY FILE** a renewed motion to seal that identifies specific portions of the  
12 Application and associated documents for which compelling reasons exist to prevent public  
13 access, accompanied by a copy of the Application and associated documents that  
14 incorporates Plaintiffs' proposed redactions. If Plaintiffs elect not to file said motion, the  
15 Court will order all documents unsealed in their entirety.

16 8. The Court otherwise **DENIES** Plaintiffs' Application and Motion to Seal.

17 **IT IS SO ORDERED.**

18 Dated: April 30, 2024

  
19 Hon. Janis L. Sammartino  
20 United States District Judge  
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