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15 **UNITED STATES DISTRICT COURT**
16 **EASTERN DISTRICT OF CALIFORNIA**
17 **FRESNO DIVISION**

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19 E. & J. GALLO WINERY, a California
corporation,
20 **Plaintiff,**
21 v.
22 PROXIMO SPIRITS, INC., a Delaware
corporation; AGAVERA CAMICHINES, S.A.
23 DE C.V., a Mexico corporation; and DOES 1-25,
24 **Defendants.**

25
26 **AND RELATED COUNTERCLAIMS**
27
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Case No. 1:10-CV-00411 LJO JLT

**ORDER GRANTING IN PART AND
DENYING IN PART GALLO'S REQUEST
TO FILE DOCUMENTS UNDER SEAL**

(DOC. 353)

1 Before the Court is the request to seal invoices submitted for consideration in connection with
2 Gallo's motion for attorneys' fees. (Doc. 353) Gallo contends the documents should be sealed for
3 several reasons, including the need to protect attorney-client communications, attorney-work product,
4 financial information that would impact counsel's competitive advantage and confidential business
5 information related to Gallo.

6 Generally, documents filed in civil cases are presumed to be available to the public. EEOC v.
7 Erection Co., 900 F.2d 168, 170 (9th Cir. 1990); see also Kamakana v. City and County of Honolulu, 447
8 F.3d 1172, 1178 (9th Cir.2006); Foltz v. State Farm Mut. Auto Ins. Co., 331 F.3d 1122, 1134 (9th
9 Cir.2003). Documents may be sealed only when the compelling reasons for doing so outweigh the
10 public's right of access. EEOC at 170. In evaluating the request, the Court considers the "public interest
11 in understanding the judicial process and whether disclosure of the material could result in improper use
12 of the material for scandalous or libelous purposes or infringement upon trade secrets." Valley
13 Broadcasting Co. v. United States District Court, 798 F.2d 1289, 1294 (9th Cir. 1986). In addition, in
14 trademark/dress matters, attorney billing rates which are not publicly known and are "competitively
15 sensitive," warrant sealing. China Intl Travel Servs. (USA) v. China & Asia Travel Serv., 2008 U.S.
16 Dist. LEXIS 106622 at *29 (N.D. Cal. Dec. 18, 2008); Mine O'Mine, Inc. v. Calmese, 2012 U.S. Dist.
17 LEXIS 53077 at *10 (D. Nev. Apr. 16, 2012).

18 The Court has reviewed the invoices submitted by the McCormick Barstow and the Harvey
19 Siskind firms. It notes that invoices prepared by McCormick Barstow were well-prepared, for the most
20 part, to exclude attorney-client communications and attorney-work product information or information
21 that bears on Gallo's trade secrets. Thus, the Court finds that except for a few entries, noted below, the
22 billing records will not be sealed.

23 The Harvey Siskind billing records are a different matter. Nearly all entries reveal not just what
24 was done by counsel but reveal also information from which it can be gleaned, why it was done. In
25 addition, there is information from the content of communication with Gallo from which Gallo's
26 business strategies can be inferred. Therefore, as to these records, they will be ordered SEALED.

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ORDER

Based upon the foregoing, the Court **ORDERS:**

1. The following information from the billing records from McCormick Barstow, **SHALL BE SEALED:**

- a. p. 51, the last entry on the page related to work done on 1/31/11;
- b. p. 63, the 5th entry related to work done on 5/23/11;
- c. p. 73, the 2nd and 3rd entry related to work done on 8/17/11;
- d. p. 85, the entry related to work done on 10/28/11;
- e. p. 85, the 1st entry related to work done on 10/31/11;
- f. p. 93, the entry related to work done on 12/2/11;
- g. p. 93, the 2nd and 3rd entry related to work done on 12/7/11;
- h. p. 112-p. 113, the entry related to work done on 3/8/12 that begins on p. 112 and ends on p. 113;
- i. p. 113, the 1st full entry related to work done on 3/8/12;
- j. p. 113, the 5th entry related to work done on 3/9/12;

2. The remaining information from the billing records from McCormick Barstow, **SHALL NOT BE SEALED**

3. The entire billing records from Harvey Siskind, **SHALL BE SEALED;**

4. Within two court days, counsel SHALL file on the public docket and version of the McCormick Barstow billing records redacted consistently with this order:

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