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UNITED STATES DISTRICT COURT

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EASTERN DISTRICT OF CALIFORNIA

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7 CHAD HERRON, individually, on
8 behalf of himself and all
9 others similarly situated,

No. 2:12-cv-02103-GEB-CKD

9

Plaintiff,

**ORDER GRANTING IN PART AND
DENYING IN PART BEST BUY'S
SEALING REQUEST**

10

v.

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BEST BUY STORES, LP, a
Virginia limited partnership;
12 and Dell, Inc.;

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Defendants.

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On September 18, 2015, Defendant Best Buy Stores, LP
16 ("Best Buy") submitted for in camera consideration a Request to
17 Seal Documents and to File Redacted Versions of the Subject
18 Documents, a Memorandum of Points & Authorities and two
19 declarations in support thereof, a proposed sealing order, and
20 the 55 pages of documents sought to be sealed. The documents
21 requested to be sealed are identified in a publicly filed Notice
22 of Request to Seal Documents and to File Redacted Versions
23 ("Notice") as follows:

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Paginated Documents to Seal, pp. 1-11
(Portions of the Memorandum of Points and
25 Authorities in Support of Best Buy Stores,
26 L.P.'s Opposition to Plaintiff's Motion for
Class Certification)[;]

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Paginated Documents to Seal, pp. 12-29
(Portions of the Declaration of Jason Bonfig
28 in Support of Defendant Best Buy Stores,

1 L.P.'s Opposition to Plaintiff's Motion for
2 Class Certification and exhibits thereto);

3 Paginated Documents to Seal, pp. 30-33
4 (Portions of the Declaration of Dennis
5 Tootelian in Support of Best Buy Stores,
6 L.P.'s Opposition to Plaintiff's Motion for
7 Class Certification)[; and]

8 Paginated Documents to Seal, pp. 34-55
9 (Portions of the Declaration of Conrad M.
10 Davis, CPA/CFF, CFE in Support of Best Buy
11 Stores, L.P.'s Opposition to Plaintiff's
12 Motion for Class Certification and exhibits
13 thereto).

14 (Notice 1:22-2:7, ECF No. 132 (bullet points omitted).)

15 Best Buy seeks to file the referenced documents under
16 seal, arguing:

17 Each of the Subject Documents contains,
18 excerpts, abstracts, and/or reflects
19 information . . . which this Court has
20 already found should properly be sealed in
21 consideration of the Motion for Class
22 Certification (see Dkt. 129). As was
23 previously explained (Dkt. No. 128 and the
24 related filings), the Subject Documents
25 include confidential and/or highly sensitive
26 proprietary business information about Best
27 Buy's internal valuation of laptop computers
28 and brands, processes for selecting a product
mix, units sold, and prices paid by
customers. The disclosure of this information
would be competitively harmful to Best Buy by
giving its detractors, competitors and
vendors valuable proprietary information
about Best Buy's pricing, sales volumes, and
internal models of product valuation, which
extend beyond the laptop models which are the
subject of this litigation.

(Id. at 2:8-19.)

Best Buy also requests an order "allow[ing] Best Buy to
file redacted versions of the Subject Documents [o]n the public
[docket] pursuant to Local Rule 140 for the United States
District Court for the Eastern District of California." (Id. at
4:1-3.)

1 **DISCUSSION**

2 The September 10, 2015 Order Granting Joint Renewed
3 Sealing Request discussed the two standards that generally govern
4 sealing requests. (See Order 4:25-6:8, ECF No. 129; see also
5 Kamakana v. City and Cnty. of Honolulu, 447 F.3d 1172, 1178-80
6 (9th Cir. 2006) (discussing the "good cause" and "compelling
7 reasons" sealing standards).) Therefore, they are not repeated
8 herein.

9 Best Buy argues the "good cause" standard governs its
10 sealing request. However, the Court need not decide which
11 standard applies since Best Buy has shown that the majority of
12 documents sought to be sealed and the majority of the proposed
13 redactions satisfy the heightened compelling reasons standard,
14 and Best Buy has not provided sufficient justification to support
15 the remainder of its request under the lesser good cause
16 standard.

17 Best Buy has shown, with the exception of page 40 of
18 its Memorandum of Points and Authorities in Support of Best Buy
19 Stores, L.P.'s Opposition to Plaintiff's Motion for Class
20 Certification ("P&As"), "compelling reasons" to seal each of the
21 referenced documents; the documents contain business information
22 the public disclosure of which could be detrimental to Best Buy's
23 competitive interests. Williams v. U.S. Bank Nat'l Ass'n, 290
24 F.R.D. 600, 604 (E.D. Cal. 2013) ("'[S]ources of business
25 information that might harm a litigant's competitive standing'
26 often warrant protection under seal." (quoting Nixon v. Warner
27 Commc'ns, Inc., 435 U.S. 589, 598 (1978))). In contrast, Best Buy
28 has not shown even good cause to seal page 40 of its P&As. The

1 sentence at issue on that page of the P&As "does not appear to be
2 sufficiently detailed to be likely to result in competitive
3 harm." Welle v. Provident Life & Accident Ins. Co., No. 3:12-cv-
4 3016 EMC (KAW), 2013 WL 6055369, at *2 (N.D. Cal. Nov. 14, 2013).

5 Further, Best Buy has shown "compelling reasons" to
6 justify its proposed redactions with the exception of the
7 following proposed redactions to its P&As:

8 Page 5, line 11, starting with "Indeed" through page 5,
9 line 13, ending with "26.)";

10 Page 38, line 11, starting with "They" through page 38,
11 line 12, ending with "IV.B.4.f.)";

12 Page 40, line 8, starting with "The" through page 40,
13 line 9, ending with "Ex. E.)";

14 Page 43, line 13, starting with "fair" through page 43,
15 line 17, ending with "Equations'";

16 Page 46, line 1, starting with "d." through page 46,
17 line 6, ending with "time.";

18 Page 46, line 8, starting with "Sarfield's" through
19 page 46, line 10, ending with "Ex. C.)"; and

20 Page 46, line 23, starting with "The" through page 46,
21 line 24, ending with "Ex. E.)".

22 Best Buy has not shown justification for these itemized
23 redactions even under the lesser good cause standard. "Because of
24 the strong presumption of access to [court] records, . . .
25 [s]ealing orders . . . must be narrowly tailored." Perry v. City
26 & Cnty. of S.F., No. 10-16696, 2011 WL 2419868, at *21 (9th Cir.
27 2011). Therefore, "any interest justifying closure must be
28 specified with particularity, and there must be [a showing] that

1 the [redaction requested] is narrowly confined to protect that
2 interest." Id. (internal quotation marks, citation, and emphasis
3 omitted).

4 For the stated reasons, Best Buy's sealing request is
5 granted in part, and denied in part.

6 Best Buy shall provide to the Clerk an electronic copy
7 of the documents to be filed under seal as prescribed in Local
8 Rule 141(e)(2)(i) within seven (7) days from the date this order
9 is filed.

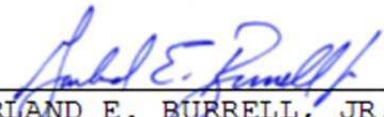
10 Further, Best Buy shall file the authorized redacted
11 versions of the sealed documents on the public docket within
12 seven (7) days from the date this order is filed.

13 Dated: September 25, 2015

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GARLAND E. BURRELL, JR.
Senior United States District Judge

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