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UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA

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GUTTERGLOVE, INC., a California Corporation,  
  
                                Plaintiff,  
  
                                v.  
  
WILLIAM LASELL, an individual;  
AMERICAN DIE AND ROLLFORMING  
INC., a California Corporation;  
and ARTESIAN HOME PRODUCTS, a  
California Corporation, doing  
business as VALOR GUTTER GUARD,  
  
                                Defendants.

No. 2:17-cv-1372 WBS CKD  
  
ORDER RE: REQUEST TO SEAL

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On March 21, 2018, this court rejected defendants' Request to File the First Amended Answer and Counterclaims ("First Amended Answer") under Seal without prejudice to the right of either party to submit a more tailored request, such as redacting a portion of the First Amended Answer and Counterclaims, which specifically states the basis for sealing or redacting this document and why the harm of disclosing that

1 information outweighs public policies favoring disclosure.<sup>1</sup>  
2 (Defs.' Mot. to Seal (Docket No. 30); March 21 Order (Docket No.  
3 33).) In denying the request, the court noted that defendants  
4 "d[id] not give specific reasons why any particular information  
5 in the [FAA] should be sealed." (March 21 Order at 2.)

6 On May 2, 2018, plaintiff filed a Motion to Enforce the  
7 Protective Order arguing that defendants threatened to violate  
8 the Protective Order by publicly filing the First Amended Answer.  
9 Plaintiff contends the First Amended Answer contains protected  
10 material in contravention of the parties' agreement in their  
11 Protective Order. (Pl.'s Mot. to Enforce Protective Order  
12 ("Pl.'s Mot.") at 2 (Docket No. 40).) As required by the  
13 Protective Order, the Magistrate Judge directed the parties to  
14 meet and confer to craft a more narrowly-tailored request to seal  
15 portions of the First Amended Answer, but stated that if the  
16 parties could not reach an agreement, then plaintiff could submit  
17 a unilateral request to seal portions of the First Amended  
18 Answer. (May 31, 2018 Order (Docket No. 48).) The parties were  
19 unable to reach an agreement on a new request to seal. Presently  
20 before the court is plaintiff's request that the court redact  
21 portions of paragraphs 28 and 81 of defendants' First Amended  
22 Answer. (Docket No. 49.)

23 A party seeking to seal a judicial record bears the  
24 burden of overcoming a strong presumption in favor of public  
25 access. Kamakana v. City & Cty. of Honolulu, 447 F.3d 1172, 1178

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27 <sup>1</sup> Plaintiff did not oppose defendants' request. (Docket  
28 No. 32).

1 (9th Cir. 2006). Regardless of the standard to be applied,  
2 plaintiff has not shown "good cause" let alone "compelling  
3 reasons" to redact the First Amended Answer. See In re Google  
4 Inc. Gmail Litig., No. 13-MD-02430-LHK, 2013 WL 5366963, at \*2  
5 (N.D. Cal. Sept. 25, 2013); see also Illumina, Inc. v. Ariosa  
6 Diagnostics, Inc., No. 14-cv-1921 SI, 2014 WL 12647739, at \*1  
7 (N.D. Cal. June 23, 2014) (applying compelling reasons standard  
8 to motion to seal portions of the first amended answer and  
9 counterclaims).

10 Unlike the previous request to seal, plaintiff now  
11 provides a reason for its request to redact two paragraphs of  
12 defendants' First Amended Answer. Plaintiff argues that the two  
13 paragraphs at issue contain private material unearthed during  
14 discovery that constitutes "protected material" as defined by the  
15 parties' Protective Order.<sup>2</sup> (See Pl.'s Request to Seal at 5;  
16 Decl. of Sara Gillette ("Gillette Decl.") ¶ 5). Specifically,  
17 plaintiff argues that these paragraphs contain confidential  
18 communication that includes valuable commercial, research and  
19 development, and business practice information unavailable to the  
20 general public. (Pl.'s Request to Seal at 5; Gillette Decl. ¶ 6).  
21 Plaintiff further argues that the paragraphs contain plaintiff's  
22 intellectual property and designs, patent strategy, and an

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23  
24 <sup>2</sup> The Protective Order acknowledges that the action is  
25 likely to involve information from which special protection from  
26 public disclosure is warranted. (Protective Order (Docket No.  
27 29).) Protected information consists of "confidential business  
28 or financial information, information regarding confidential  
business practices, or other confidential research, development,  
or commercial information . . . information otherwise generally  
unavailable to the public, or which may be privileged or  
otherwise protected from disclosure . . ." (Id. at 2.)

1 analysis of competitive conduct in the gutter guard industry.  
2 (Pl.'s Request to Seal at 5; Gillette Decl. ¶ 7).

3           Having reviewed the request, the court concludes that  
4 neither of the two paragraphs at issue contain this type of  
5 information. First, plaintiff's arguments amount to no more than  
6 "[b]road allegations of harm, unsubstantiated by specific  
7 examples or articulated reasoning," which do not satisfy the  
8 "good cause" standard let alone the "compelling reasons"  
9 standard. See Polaris Innovations Ltd. v. Kingston Tech. Co.,  
10 Inc., No. 16-cv-300 CJCR AOX, 2017 WL 2806897, at \*5 (C.D. Cal.  
11 Mar. 30, 2017) (quoting Beckman Indus. Inc. v. Int'l Ins. Co.,  
12 966 F.2d 470, 476 (9th Cir. 1992)). Second, the date a patent is  
13 filed is public information. Furthermore, the court does not see  
14 how the email in question--which states that Robert Lenney found  
15 a document containing drawings and contents of an invention in a  
16 truck in July 2013--requires protection. Accordingly, the court  
17 will deny plaintiff's request that two paragraphs in the First  
18 Amended Answer be redacted.

19           IT IS THEREFORE ORDERED that plaintiff's motion to  
20 redact portions of defendant's First Amended Answer (Docket No.  
21 49) be, and the same hereby is DENIED.

22 Dated: July 18, 2018



23 **WILLIAM B. SHUBB**  
24 **UNITED STATES DISTRICT JUDGE**