

United States District Court
For the Northern District of California

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IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

MMCA GROUP, LTD.,
Plaintiff

No. C-06-7067 MMC

v.

HEWLETT-PACKARD COMPANY, et al.,
Defendants.

**ORDER GRANTING IN PART AND
DENYING IN PART DEFENDANT'S
ADMINISTRATIVE MOTION TO FILE
DOCUMENTS UNDER SEAL**

Before the Court is defendant Hewlett-Packard Company's ("HP") "Administrative Motion to Seal Exhibits to Smart Declaration in Support of Motion for Partial Summary Judgment or, in the Alternative, for Judgment on the Pleadings," filed October 31, 2008, by which HP seeks to file under seal Exhibits A-C, F-G, I-O, Q-BB, and DD-UU to the above-referenced declaration. No opposition has been filed. Having read and considered the motion and the declaration of Sandra C. Zuniga in support thereof, the Court rules as follows:

1. Exhibit C was designated "confidential" by plaintiff.¹ Under the Local Rules of this District, where a party seeks to file under seal any material designated as confidential by

¹Exhibits K, N, O, R, S, V, Z, AA, EE, LL, MM, NN, OO, QQ, RR, and TT likewise were designated "confidential" or "highly confidential - attorneys' eyes only" by plaintiff. HP, however, has filed "a declaration establishing that the . . . document[s] [are] sealable." See Civ. L.R. 79-5(b)(1); see also Zuniga Decl. ¶ 4.

1 another party, the submitting party must file a motion for a sealing order. See Civ. L.R. 79-
2 5(d). “Within five days thereafter, the designating party must file with the Court and serve a
3 declaration establishing that the designated information is sealable, and must lodge and
4 serve a narrowly tailored proposed sealing order, or must withdraw the designation of
5 confidentiality.” Id. “If the designating party does not file its responsive declaration as
6 required . . . the document or proposed filing will be made part of the public record.” Id.

7 Here, plaintiff has not filed a responsive declaration within the time provided under
8 Civil Local Rule 79-5(d). Accordingly, with respect to Exhibit C, the motion is DENIED.

9 2. Exhibits A and G consist of discovery responses by plaintiff. HP does not state
10 such documents have been designated confidential by any party; rather, HP states its
11 request to file such documents under seal is “[o]ut of caution.” (See Zuniga Decl. ¶¶ 6, 8.)
12 With respect to Exhibits A and G, the motion is DENIED, for the reason that HP has failed
13 to file “a declaration establishing that the . . . document[s] [are] sealable.” See Civ. L.R. 79-
14 5(b)(1).

15 3. With respect to Exhibit M, the motion likewise is DENIED, for the reason that HP
16 has failed to file “a declaration establishing that the . . . document is sealable.” See Civ.
17 L.R. 79-5(b)(1). Such denial is without prejudice to HP’s filing a renewed Administrative
18 Motion to File under Seal, and accompanying declaration, in compliance with Civil Local
19 Rule 79-5. Such motion and declaration, if any, shall be filed no later than November 21,
20 2008.


21 4. With respect to Exhibits B, F, I, J, K, L, N, O, Q, R, S, T, U, V, W, X, Y, Z, AA,
22 BB, DD, EE, FF, GG, HH, II, JJ, KK, LL, MM, NN, OO, PP, QQ, RR, SS, TT, and UU, the
23 motion is GRANTED.

24 The Clerk shall not file any of the above-referenced documents at this time. After
25 HP files a renewed motion, as described in paragraph 3 above, or after the time for such
26 filing has passed without said motion having been filed, the Clerk will be directed to file
27 under seal all of the above-referenced documents that the Court has found to be sealable.
28 If, at that time, HP wishes the Court to consider any documents not found to be sealable,

1 HP shall file such documents in the public record.

2 **IT IS SO ORDERED.**

3 Dated: November 14, 2008


MAXINE M. CHESNEY
United States District Judge

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