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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

ORACLE USA, INC., et al.,
Plaintiffs,
v.
SAP AG, et al.,
Defendants.

No. C 07-1658 PJH

**ORDER GRANTING MOTIONS TO SEAL
IN PART AND DENYING THEM IN PART**

Before the court are six motions to seal documents filed in connection with the parties' motions for partial summary judgment.

The "compelling reasons" standard is applied to motions to seal materials attached to dispositive motions. See Pintos v. Pacific Creditors Ass'n, 605 F.3d 665, 678-79 (9th Cir. 2010). That is, a party seeking to file documents under seal in a dispositive motion must overcome the strong presumption of public access by showing that "compelling reasons supported by specific factual findings . . . outweigh the general history of access and the public policies favoring disclosure." Kamakana v. City & County of Honolulu, 447 F.3d 1172, 1178-79 (9th Cir. 2006).

In granting a motion to seal documents attached to a dispositive motion, the court must weigh "relevant factors," base its decision "on a compelling reason," and "articulate the factual basis for its ruling, without relying on hypothesis or conjecture." Pintos, 605 F.3d at 679 (citation omitted). "Relevant factors" include the "public interest in understanding the judicial process and whether disclosure of the material could result in improper use of the material for scandalous or libelous purposes or infringement upon trade secrets." Id. at 679 n.6.

United States District Court
For the Northern District of California

1 In the present case, all the documents or other materials that are the subject of the
2 motions to seal were designated as confidential by Oracle. Thus, it is Oracle’s burden to
3 establish that the requests to seal meet the “compelling reasons” standard.

4 In light of this standard, the court rules as follows:

5 1. SAP’s motion to seal documents (Docket No. 643) filed with its motion for
6 partial summary judgment is DENIED. With the exception of Exhibit A to the Lanier
7 Declaration, either the parties have stipulated to withdraw the request, or Oracle has
8 withdrawn its support for sealing the materials. See Docket No. 664 (Oracle’s Response in
9 Support of SAP’s Motion to Seal, filed March 10, 2010); Docket No. 760 (Stipulation
10 Regarding Partial Withdrawal of Pending Motions to Seal, filed August 13, 2010).

11 With regard to Exhibit A to the Lanier Declaration, the court finds that Oracle has
12 failed to articulate a compelling reason to seal this document, which consists of excerpts
13 from the report of Oracle’s damages expert Paul K. Meyer. Oracle argues that disclosure
14 of this information would give its competitors an unfair and possibly inaccurate view of
15 Oracle’s “product roadmap.” However, this is a case in which Oracle seeks millions (or
16 possibly billions) of dollars in damages, and it cannot claim that details of the basis for its
17 damages claims should be sealed from public access.

18 2. Oracle’s motion to seal documents (Docket No. 658) filed with its motion for
19 partial summary judgment is DENIED as to the cited excerpts from Exhibits 17 and 18 to
20 the Alinder Declaration, as to Exhibits 115, 116, and 117 to the Alinder Declaration, as to
21 Exhibit D to the O’Neill Declaration, and as to the portions of Oracle’s memorandum of
22 points and authorities citing those materials. The parties have stipulated to withdraw the
23 request as to Exhibit 115 to the Allinder Declaration. The court finds Oracle’s argument as
24 to Exhibit D to the O’Neill Declaration to be entirely speculative, and not based on specific
25 factual findings. Similarly, the court finds Oracle’s argument as to Exhibits 17 and 18 to the
26 Alinder Declaration to be lacking in specific facts. Finally, as with Exhibit A to the Lanier
27 Declaration, Oracle has articulated no compelling reason to seal Exhibits 116 and 117 to
28 the Alinder Declaration (which exhibits also consist of excerpts from the Meyer report on

1 damages).

2 The motion is GRANTED as to ¶¶ 10, 21, and 23-24 of the Ackerman Declaration,
3 as to Appendices B-K to the Ackerman Declaration, and as to ¶ 8 to the Fallon Declaration.
4 All of these documents contain references to Oracle's source code. Oracle has established
5 a compelling reason to seal these documents, as source code is akin to a trade secret.

6 3. SAP's motion to seal documents (Docket No. 673) filed with its opposition to
7 Oracle's motion for partial summary judgment is DENIED. Oracle has advised that certain
8 portions of SAP's brief that were designated as confidential – SAP's Opposition at i:22-23,
9 11:4-5, 15:4, 16:11, 16:27-28, 17:11-13 – need not be sealed.

10 With regard to Exhibit 14 to the Lanier Declaration (excerpt from the Allison
11 deposition), the court does not find "highly sensitive Oracle information pertaining to
12 customer negotiations and licensing strategy" sufficient to provide a compelling reason to
13 seal this deposition excerpt. Similarly, with regard to Exhibits 19 and 20 to the Lanier
14 Declaration (excerpts from Koehler deposition), the court finds no specific facts describing
15 "security concerns and mechanisms at Oracle," or details of "logs and methods of
16 investigation employed by GIS," and finds therefore that Oracle has not met its burden of
17 showing that a compelling reason exists to seal these deposition excerpts. For the same
18 reasons, the court finds no compelling reason to seal the remaining portions of SAP's brief,
19 at 16:12-14 and 17:2-4.

20 4. Oracle's motion to seal documents (Docket No. 680) filed with its opposition
21 to SAP's motion for partial summary judgment and cross-motion for partial summary
22 judgment is DENIED. The parties have stipulated to withdraw the request as to portions of
23 Exhibit 3 to the House Declaration, at ¶ 433. With regard to the remaining portions of
24 Exhibit 3 to the House Declaration which are at issue in this request (¶¶ 146-148 and 232),
25 the court finds that Oracle has not met its burden of establishing that a compelling reason
26 exists to seal these materials.

27 Exhibit 3 to the House Declaration consists of excerpts from the damages report of
28 Oracle's expert Mr. Meyer. As with regard to Motion No. 1, discussed above, these

1 excerpts appear to relate directly to Oracle's damages claims, and the exhibit should
2 therefore be publicly filed.

3 5. SAP's motion to seal documents (Docket No. 695) filed with its reply to
4 Oracle's opposition is DENIED, based on the parties' stipulation to withdraw the entire
5 motion.

6 6. Oracle's motion to seal documents (Docket No. 699) filed with its reply to
7 SAP's opposition, and opposition to SAP's cross-motion, is GRANTED as to Exhibit 12 to
8 the Russell Declaration, which contains Oracle's source code. As with Motion No. 2,
9 above, the court finds that a compelling reason exists to seal this material.

10 The court hereby ORDERS that the documents as to which the motions to seal have
11 been denied be filed in the public record.

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IT IS SO ORDERED.

Dated: August 26, 2010



PHYLLIS J. HAMILTON
United States District Judge