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United States District Court
For the Northern District of California

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 RE MOTIONS TO SEAL

Before the court are seven motions to seal documents filed by the parties in connection with various motions in limine and motions to exclude expert opinion and testimony.

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 Kamakana, the Ninth Circuit explained that “compelling reasons” are required to seal documents used in dispositive motions such as motions for summary judgment, just as

1 compelling reasons would be needed to justify a closure of a courtroom during trial. Id. at
2 1179 (“the resolution of a dispute on the merits, whether by trial or summary judgment, is at
3 the heart of the interest in ensuring the ‘public’s understanding of the judicial process and
4 of significant public events.’” (quotation omitted)). Because motions in limine and motions
5 to exclude expert testimony at trial are part of the trial, all documents filed in connection
6 with those motions must likewise be publicly filed, absent compelling reasons.

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

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

15 1. SAP’s motion to seal documents (Docket No. 730) filed in support of its
16 motions in limine is GRANTED. The specified pages of Exhibit K to the Declaration of
17 Jason McDonnell contain references to Oracle’s source code. For the reasons stated in the
18 court’s August 26, 2010, order, the court finds that Oracle’s supporting declaration has
19 established a compelling reason to seal these documents.

20 2. Oracle’s motion to seal documents (Docket No. 739) filed in support of its
21 motions in limine is DENIED. For the reasons stated in the court’s August 26, 2010, order,
22 the court finds that Oracle has not met its burden of establishing that a compelling reason
23 exists to seal these materials. In addition, the declarations attached as Docket No. 739-2
24 (as to which no sealing request was made) shall be filed in the public record.

25 3. Oracle’s motion to seal documents (Docket No. 784) filed in support of its
26 motion to exclude the opinions and testimony of SAP’s expert Stephen Clarke, and in
27 opposition to SAP’s motions in limine is DENIED. These documents contain information
28 that either Oracle or SAP has designated as confidential, and wish to have filed under seal.

1 However, the court finds that neither SAP nor Oracle has met its burden of establishing that
2 a compelling reason exists to seal these materials. In addition, the declarations attached
3 as Docket Nos. 784-2 and 784-3 (as to which no sealing request was made) shall be filed
4 in the public record.¹

5 4. SAP's motion to seal documents (Docket No. 796) filed in support of its
6 motions to exclude expert opinion and testimony and its motions in limine is DENIED.
7 These documents contain information that Oracle has designated as confidential and
8 wishes to have filed under seal. However, the court finds that Oracle has not met its
9 burden of establishing that a compelling reason exists to seal these materials.

10 5. Oracle's motion to seal documents (Docket No. 840) filed in support of its
11 opposition to SAP's motion to exclude opinion and testimony of Oracle's expert Paul K.
12 Meyer is DENIED. These documents contain information that SAP has designated as
13 confidential and wishes to have filed under seal. However, the court finds that SAP has not
14 met its burden of establishing that a compelling reason exists to seal these materials. In
15 addition, the declaration attached as Docket No. 840-3 (as to which no sealing request was
16 made) shall be filed in the public record.

17 6. SAP's motion to seal documents (Docket No. 857) filed in support of its
18 opposition to Oracle's motion to exclude expert opinion and testimony of SAP's expert
19 Stephen Clarke is DENIED. These documents contain information that Oracle has
20 designated as confidential and wishes to have filed under seal. However, the court finds
21 that Oracle has not met its burden of establishing that a compelling reason exists to seal
22 these materials. In addition, the declaration attached as Docket No. 857-1 (as to which no
23 sealing request was made) shall be filed in the public record.

24 7. Oracle's motion to seal documents (Docket No. 887) filed in support of its
25 reply to SAP's opposition to Oracle's motion to exclude expert opinion and testimony of
26 SAP's expert Stephen Clarke is DENIED. Oracle has not met its burden of establishing

27
28 ¹ Oracle's motion to seal documents filed in support of its motion filed under 17 U.S.C.
§ 410(c) has been mooted by its withdrawal of the underlying motion.

1 that a compelling reason exists to seal these materials. In addition, the declaration
2 attached as Docket No. 887-3 (as to which no sealing request was made) shall be filed in
3 the public record.

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5 **IT IS SO ORDERED.**

6 Dated: September 30, 2010



PHYLLIS J. HAMILTON
United States District Judge

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