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

LOTES CO., LTD.,

No. C 11-01036 WHA

Plaintiff,

v.

HON HAI PRECISION INDUSTRY CO.,  
LTD., and FOXCONN ELECTRONICS,  
INC.,

**ORDER GRANTING  
REQUEST TO FILE MOTION  
FOR PARTIAL SUMMARY  
JUDGMENT AND DENYING  
ADMINISTRATIVE MOTION  
TO FILE UNDER SEAL**

Defendants.

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Plaintiff Lotes Co., Ltd., moves to file under seal portions of a précis and request to file a motion for partial summary judgment (Dkt. No. 300). The proposed motion, which would seek to bar “the majority of the infringement counter-claims asserted in this action” (Dkt. No. 300-4 at 1, 3), is “more than tangentially related to the merits of [the] case,” so Lotes must show “compelling reasons” to rebut the “strong presumption” in favor of public access and justify sealing. *Ctr. for Auto Safety v. Chrysler Grp., LLC*, 809 F.3d 1092, 1099–1101 (9th Cir. 2016); *Kamakana v. City & Cty. of Honolulu*, 447 F.3d 1172, 1178–79 (9th Cir. 2006). Per Civil Local Rule 79-5(d), “[r]eference to a stipulation or protective order that allows a party to designate certain documents as confidential is not sufficient.”

Lotes’s supporting declaration asserts that the redacted portions of the précis “refer in detail to confidential information contained in the joint development agreements (the ‘JDA agreements’) to which Intel Corporation (‘Intel’) and Defendants are parties,” and that “[t]he JDA agreements contain sensitive and proprietary information regarding the relationship between Intel and its suppliers, including both Lotes and Defendants. The disclosure of such

1 information could harm Lotes by providing information to competitors or potential competitors  
2 of Lotes, such as entities that seek to become suppliers of products manufactured by Lotes”  
3 (Dkt. No. 300-1 ¶¶ 2–3). Lotes provides no further explanation as to *how* it would be harmed if  
4 the information it seeks to redact is disclosed to “competitors or potential competitors.”

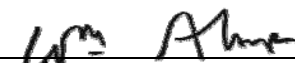
5 Lotes contends its requested redactions would not “affect public understanding of the  
6 nature and substance of the Court’s proceedings and determinations” because they would  
7 conceal only “information about the confidential JDA agreements” (Dkt. No. 300 at 4). But  
8 those agreements are at the core of Lotes’s proposed motion for partial summary judgment. The  
9 merits of Lotes’s proposed motion, and any resulting adjudication of the parties’ substantive  
10 rights as to the affected counterclaims, would be inscrutable without at least some visibility into  
11 the agreements. Contrary to Lotes, the presumption in favor of public access applies here.

12 After reviewing Lotes’s requested redactions, the Court finds they are not supported by  
13 compelling reasons that would rebut the strong presumption in favor of public access. For  
14 example, Lotes seeks to redact references to the parties to the agreements and the agreements’  
15 generic descriptive titles (*e.g.*, the phrase “Development Agreements”), even though this  
16 information has already been revealed both in the unredacted portions of the précis and in  
17 Lotes’s administrative motion. Lotes also seeks to redact a garden-variety agreement provision  
18 containing no apparent sensitive or proprietary information that a competitor could use to harm  
19 Lotes, as well as the number of accused products in this litigation supposedly covered by the  
20 agreements in question. These examples are not exhaustive but illustrate Lotes’s overreach.

21 Lotes’s request for permission to file its proposed motion for summary judgment is  
22 **GRANTED**. Its administrative motion to file under seal is **DENIED** without prejudice to more  
23 judicious sealing requests in connection with its moving papers.

24  
25 **IT IS SO ORDERED.**

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27 Dated: July 27, 2017.

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WILLIAM ALSUP  
UNITED STATES DISTRICT JUDGE