

United States District Court
For the Northern District of California

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

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

PROCONGPS, INC.,

No. C 11-3975 SI

Plaintiff,

**ORDER RE: STIPULATION BY
PLAINTIFF AND DEFENDANTS JIM
SCHUMACHER AND JIM
SCHUMACHER LLC TO FILE UNDER
SEAL**

v.

SKYPATROL, LLC, *et al.*,

Defendants.

On April 23, 2013, plaintiff Spireon (formerly ProconGPS) and defendants Jim Schumacher and Jim Schumacher LLC (“Schumacher defendants”) filed a stipulation and proposed order to file certain documents under seal, in connection with the Schumacher defendants’ motion for summary judgment. Docket No. 164. On April 30, 2013, plaintiff filed the declaration of Michael Nguyen in support of the stipulation. Docket No. 170. The parties seek to file under seal portions of the Schumacher defendants’ motion for summary judgment referencing Exhibit 5, as well as the entirety of Exhibit 5. Plaintiff has designated Exhibit 5 as “highly confidential.” Mr. Nguyen’s declaration states that plaintiff designated Exhibit 5 as highly confidential because it contains Spireon’s nonpublic, proprietary information regarding the business relationship between Spireon and defendant Star Sensor.

With the exception of a narrow range of documents that are “traditionally kept secret,” courts begin their sealing analysis with “a strong presumption in favor of access.” *Foltz v. State Farm Mut. Auto. Ins.*, 331 F.3d 1122, 1135 (9th Cir. 2003). When applying to file documents under seal in connection with a dispositive motion such as the Schumacher defendants’ motion for summary judgment, the submitting party bears the burden of “articulating compelling reasons supported by

1 specific factual findings that outweigh the general history of access and the public policies favoring
2 disclosure, such as the public interest in understanding the judicial process.” *Kamakana v. City and*
3 *County of Honolulu*, 447 F.3d 1172, 1178-79 (9th Cir. 2006) (internal quotations and citations omitted).
4 In addition, all requests to file under seal must be “narrowly tailored,” such that only sealable
5 information is sought to be redacted from public access. Civil Local Rule 79-5(a).

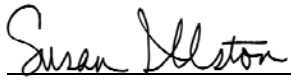
6 The stipulation and supporting declaration do not demonstrate that the materials at issue should
7 be sealed. The redacted portions of the summary judgment motion do not refer to nonpublic, proprietary
8 information regarding the business relationship between Spireon and defendant Star Sensor. Further,
9 while it may be that portions of Exhibit 5 contain proprietary or other confidential information, the
10 stipulation does not demonstrate why the entire exhibit – including the specific portions relevant to the
11 Schumacher defendants’ motion – must be filed under seal. The fact that Spireon and Star Sensor
12 agreed among themselves to keep Exhibit 5 private, without more, is no reason to shield the information
13 from other parties to the case or the public at large. “[S]imply mentioning a general category of
14 privilege, without any further elaboration or any specific linkage with the documents, does not satisfy
15 the burden.” *Kamakana*, 447 F.3d at 1184. Neither do “[b]road allegations of harm, unsubstantiated
16 by specific examples or articulated reasoning.” *Phillips ex rel. Estates of Byrd v. General Motors Corp.*,
17 307 F.3d 1206, 1211 (9th Cir. 2002) (citations omitted).

18 Accordingly, the Court hereby DENIES the stipulation to file under seal. This denial is without
19 prejudice to the parties refiling the stipulation and supporting declaration, **no later than May 8, 2013**,
20 in a format which is narrowly tailored and demonstrates “compelling reasons supported by specific
21 factual findings that outweigh the general history of access and the public policies favoring disclosure,
22 such as the public interest in understanding the judicial process.” *Kamakana*, 447 F.3d at 1178-79.

23 This order resolves Docket No. 164.

24 **IT IS SO ORDERED.**

25
26 Dated: May 3, 2013

27 
28 _____
SUSAN ILLSTON
United States District Judge