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

BLUESTONE INNOVATIONS LLC,

No. C 12-00059 SI

Plaintiff,

**ORDER RE: ADMINISTRATIVE
MOTION TO SEAL**

v.

NICHIA CORP.; NICHIA AMERICA CORP.,

Defendant.

On March 8, 2013, the parties stipulated to an administrative motion to file documents under seal in the Nichia defendants' motion to dismiss for lack of standing. The parties stipulate to seal: (1) the entire motion; (2) the entirety of the Exhibits 2-7, 9-10, and 13-20 of the Declaration of Brian Egan; (3) the entirety of the Declaration of Yuji Matsuyama; and (4) Exhibits A-C of the Matsuyama Declaration. Decl. of Brian P. Egan in Supp. of Stipulation to File Under Seal ("Egan Decl.") ¶¶ 2-3. They argue these should be sealed because Nichia, Bluestone, and third parties Thompson Licensing, LLC and Xerox Corporation have designated these documents "Confidential" or "Highly Confidential—Attorneys' Eyes Only." Only Nichia has provided a declaration supporting the motion to seal. Nichia argues that the Matsuyama Declaration and Exhibits A-C should be sealed because they contain "confidential business information" which provides "a business advantage to Nichia and Nichia's customers and is not generally known or publically available." *Id.* ¶ 6.

"A stipulation, or a blanket protective order that allows a party to designate documents as sealable, will not suffice to allow the filing of documents under seal." Civ. L.R. 79-5(a). 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

1 1122, 1135 (9th Cir. 2003). When applying to file documents under seal in connection with a non-
2 dispositive motion, a showing of “good cause” under Federal Rule of Civil Procedure 26(c) is sufficient
3 for the Court to file the documents under seal. *Kamakana v. City and County of Honolulu*, 447 F.3d
4 1172, 1179-80 (9th Cir. 2006); *see also* Fed. R. Civ. P. 26(c). To show good cause, the moving party
5 must still make a “particularized showing” that “specific harm or prejudice will result if the information
6 is disclosed.” *Kamakana*, 447 F.3d at 1179-80; *Apple, Inc. v. Samsung Elecs. Co. Ltd.*, Case No.
7 11–CV–01846 LHK (PSG), 2012 WL 4120541, at *1 (N.D. Cal. Sept. 18, 2012). “Simply mentioning
8 a general category of privilege, without any further elaboration or any specific linkage with the
9 documents, does not satisfy the burden.” *Kamakana*, 447 F.3d at 1184. Neither do “[b]road allegations
10 of harm, unsubstantiated by specific examples or articulated reasoning.” *Phillips*, 307 F.3d at 1211.

11 The parties have failed to make a particularized showing that good cause exists for these
12 documents to be filed under seal. Their blanket assertions that documents contain confidential
13 information or were designated “Attorneys’ Eyes Only” are insufficient, and merely stipulating to file
14 the documents under seal is not enough.¹ *See* Local Rule 79-5(a). Moreover, Nichia’s vague assertions
15 that documents contain information that provides a “business advantage” and are not generally known
16 does not show a specific harm or prejudice. It is not enough to overcome the strong presumption in
17 favor of access and seal documents in their entirety.

18 Accordingly, the parties shall make the requisite showing that the documents at issue are
19 sealable, **no later than April 1, 2013**. If the parties do not do so, the documents will be made part of
20 the public record.

21
22 **IT IS SO ORDERED.**

23 Dated: March 25, 2013



24 _____
25 SUSAN ILLSTON
26 United States District Judge

27 _____
28 ¹The parties also failed to follow Local Rule 79-5(d), which requires the designating party to file a declaration establishing the document is sealable within 7 days of the filing of the motion to seal.