

1 **LEGAL STANDARD**

2 A party seeking to seal a document filed with the court must (1) comply with Civil
3 Local Rule 79-5; and (2) rebut the “strong presumption in favor of access” that applies to all
4 documents other than grand jury transcripts or pre-indictment warrant materials. *Kamakana*
5 *v. City and County of Honolulu*, 447 F.3d 1172, 1178 (9th Cir. 2006) (internal quotation
6 marks omitted).

7 With respect to the first prong, Local Rule 79-5 requires, as a threshold, a request that
8 (1) “establishes that the document, or portions thereof, are privileged, protectable as a trade
9 secret or otherwise entitled to protection under the law”; and (2) is “narrowly tailored to
10 seek sealing only of sealable material.” Civil L.R. 79-5(b). An administrative motion to
11 seal must also fulfill the requirements of Civil Local Rule 79-5(d). “Reference to a
12 stipulation or protective order that allows a party to designate certain documents as
13 confidential is not sufficient to establish that a document, or portions thereof, are sealable.”
14 Civil L.R. 79-5(d)(1)(A).

15 With respect to the second prong, the showing required for overcoming the strong
16 presumption of access depends on the type of motion to which the document is attached.
17 When a party seeks to file materials in connection with a dispositive motion, the
18 presumption can be overcome only if the party presents “compelling reasons supported by
19 specific factual findings that outweigh the general history of access and the public policies
20 favoring disclosure.” *Kamakana*, 447 F.3d 1172 at 1178-79 (internal quotation marks
21 omitted). “The mere fact that the production of records may lead to a litigant’s
22 embarrassment, incrimination, or exposure to further litigation will not, without more,
23 compel the court to seal its records.” *Id.* at 1179.

24 On the other hand, when a party seeks to seal materials in connection with a non-
25 dispositive motion, they need not meet the “compelling reasons” standard “because those
26 documents are often unrelated, or only tangentially related, to the underlying cause of
27 action.” *Id.* at 1179 (internal quotation marks omitted). In that case, a party need only
28 make a “particularized showing under the good cause standard of Rule 26(c)” to justify the

1 sealing of the materials. *Id.* at 1180 (internal quotation marks omitted). A court may, for
2 good cause, keep documents confidential “to protect a party or person from annoyance,
3 embarrassment, oppression, or undue burden or expense.” Fed. R. Civ. P. 26(c).

4 A district court must “articulate [the] . . . reasoning or findings underlying its decision
5 to seal.” *Apple Inc. v. Psystar Corp.*, 658 F.3d 1150, 1162 (9th Cir. 2011).

6 DISCUSSION

7 The parties’ motions to seal all pertain to information disclosed along with past
8 motions to strike. Motions to strike are treated as non-dispositive for sealing purposes.
9 *Guzik Technical Enters, Inc. v. W. Digital Corp.*, 2013 WL 6070414 (N.D. Cal. Nov. 18,
10 2013). Thus, the “good cause” standard applies.

11 **A. Motion to Seal Documents Related to ASUS's Motion to Strike (Dkt. No. 410)**

12 ASUS moves to seal information contained in their motion to strike and related
13 declarations and exhibits. Both ASUS and Round Rock have designated portions of this
14 information as confidential.

15 The parties’ declarations in support of sealing state that the information they seek to
16 seal discloses specific, confidential sales and components information. Dkt. Nos. 410, 412.
17 They insist the release of this information may put them at a competitive disadvantage. *Id.*

18 After carefully reviewing this information, the Court concludes that the declarations
19 satisfy the “good cause” standard, and that the parties’ appropriately tailored their
20 redactions to seal only confidential information.

21 **B. Motion to Seal Documents Related to Round Rock’s Opposition 22 Brief (Dkt. No. 405)**

23 Round Rock files this motion to seal information contained in its opposition to
24 ASUS’s motion to strike and related exhibits. The motion identifies ASUS as the party
25 designating the material as confidential.

26 ASUS’s declaration in support of Round Rock’s motion to file under seal identifies a
27 small portion of the opposition brief as containing confidential internal administrative
28 information. Dkt. No. 417. ASUS maintains that disclosure of this information to their

1 competitors would put them at a competitive disadvantage. *Id.*

2 ASUS declares that Exhibit 5 contains detailed technical information regarding the
3 composition and configuration of their products. They argue this document divulges
4 protected trade secrets, the release of which would allow their competitors to replicate their
5 products and put them at a competitive disadvantage. *Id.* They declare that Exhibit 7
6 contains specific component information unavailable to their competitors without the
7 substantial expense of reverse engineering. They argue the release of this information
8 would advantage their competitors and may harm ASUS's relationship with its suppliers.
9 *Id.* The motion calls for sealing these exhibits in their entirety.

10 After careful review the court concludes ASUS's declaration satisfies the "good
11 cause" standard with respect to each document. The redactions in the opposition brief
12 conceal only ASUS's confidential internal administrative information without unduly
13 limiting public access. As for Exhibits 5 and 7, while a party must redact portions of a
14 document when possible, it may sometimes be appropriate to seal a document in its entirety.
15 *Kamakana*, at 1183. Sealing Exhibits 5 and 7 in their entirety is appropriate in this case
16 considering the volume and density of confidential information they contain.

17 **C. Motion to Seal Documents Related to Round Rock's Reply Motion**
18 **to Strike (Dkt. No. 404)**

19 Round Rock's other motion to seal relates to material disclosed in their reply motion
20 to strike and related exhibits X and Y. Dkt. Nos. 283, 284. ASUS and OmniVision have
21 designated this material as confidential and provided declarations in support of the motion.
22 Dkt. Nos. 416, 418. Round Rock's motion includes redacted versions of their reply motion
23 to strike and Exhibit X. OmniVision's declaration in support of the motion to seal contains
24 a redacted version of Exhibit Y.

25 ASUS's declaration in support of the motion to seal identifies confidential licensing
26 information contained in Round Rock's reply motion to strike and Exhibit X. Dkt. No. 416.
27 They argue the release of this information would compromise their future licensing
28 negotiations and may lead to additional licensing demands. *Id.*

1 OmniVision declares that Exhibit Y contains confidential information concerning
2 image sensor design and manufacturing. Dkt. No. 418 ¶ 5. They argue this information
3 constitutes a trade secret and that its release would compromise its confidentiality
4 obligations to third parties. *Id.*

5 After careful review the court concludes that these declarations satisfy the “good
6 cause” standard with respect to all three documents. The parties clearly articulated why the
7 redacted information should be sealed, and they have tailored their redactions to only
8 protectable material.

9 **D. Motion to Seal Documents Related to ASUS’s Opposition to Round**
10 **Rock’s Reply Motion to Strike (Dkt. No. 411)**

11 ASUS’s final motion to seal concerns information disclosed in their opposition to
12 Round Rock’s reply motion to strike and in 12 associated exhibits. ASUS and Round Rock
13 provide declarations in support of the motion that identify the information they seek to file
14 under seal as confidential. Dkt. Nos. 411-1, 413.

15 The parties declare that the motion to strike and the associated exhibits each reveal
16 either private licensing or component information, the release of which would alternatively
17 result in their competitive disadvantage or compromise their licensing practices and
18 relationships. They provide specific support for these assertions in relation to each
19 document. *Id.*

20 After careful review the court concludes that these declarations also satisfy the “good
21 cause” standard. The parties clearly articulated why the redacted information should be
22 sealed, and they have tailored their redactions to only protectable material. Exhibits 15 and
23 16 may appropriately be sealed in their entirety given the breadth of the licensing
24 information they contain.

1 **CONCLUSION**

2 The motions at Dkt. Nos. 404, 405, 410 and 411 are granted for the reasons discussed
3 above. “[T]he documents filed under seal will remain under seal and the public will have
4 access only to the redacted version, if any, accompanying the motion.” Civil L. R. 79-
5 5(f)(1).

6 IT IS SO ORDERED.

7 Date: June 20, 2014

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10 Nathanael M. Cousins
11 United States Magistrate Judge
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