

United States District Court
For the Northern District of California

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

ILLUMINA, INC.,

No. C 14-01921 SI

Plaintiff,

**ORDER GRANTING PLAINTIFF’S
MOTION TO SEAL**

v.

ARIOSA DIAGNOSTICS, INC.,

Defendant.

On June 11, 2014, defendant Ariosa Diagnostics, Inc. (“Ariosa”) filed a first amended answer and counterclaims. Docket No. 26-3. On June 23, 2014, the Court granted Ariosa’s motion to seal portions of the first amended answer and counterclaims, specifically paragraph 19, lines 19-22, lines 24-27; paragraph 20; paragraph 21, lines 12-16; paragraph 25, lines 19-22; paragraph 26; paragraph 27, lines 10-12; paragraph 35, lines 8-9; paragraph 49, lines 14-17; and paragraph 53, lines 24-25. Docket No. 39. By the present motion, plaintiff Illumina, Inc. (“Illumina”) moves to seal the remainder of paragraph 25 of the first amended answer and counterclaims. Docket No. 30. In the motion, Illumina explains that it did not previously seek to seal paragraph 25 in its entirety due to an administrative error. *Id.*

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

1 connection with a dispositive motion, the submitting party bears the burden of “articulating compelling
2 reasons supported by
3 specific factual findings that outweigh the general history of access and the public policies favoring
4 disclosure, such as the public interest in understanding the judicial process.” *Kamakana v. City and
5 County of Honolulu*, 447 F.3d 1172, 1178-79 (9th Cir. 2006) (internal quotations and citations omitted).
6 However, when a party seeks to seal documents attached to a non-dispositive motion, a showing of
7 “good cause” under Federal Rule of Civil Procedure 26(c) is sufficient. *Id.* at 1179-80; *see also* Fed.
8 R. Civ. P. 26(c). In addition, all requests to file under seal must be “narrowly tailored,” such that only
9 sealable information is sought to be redacted from public access. N.D. Cal. Civil Local Rule 79-5(b).

10 “The Ninth Circuit has not explicitly stated the standard—good cause or compelling
11 reasons—that applies to the sealing of a complaint, but this Court and other courts have held that the
12 compelling reasons standard applies because a complaint is the foundation of a lawsuit.” *In re Google
13 Inc. Gmail Litig.*, No. 13-MD-02430-LHK, 2013 U.S. Dist. LEXIS 138910, at *10-11 (N.D. Cal. Sept.
14 25, 2013) (collecting cases). Therefore, Illumina bears the burden of “articulating compelling reasons
15 supported by specific factual findings that outweigh the general history of access and the public policies
16 favoring disclosure, such as the public interest in understanding the judicial process.” *Kamakana*, 447
17 F.3d at 1178-79.


18 In a supporting declaration, Illumina explains that paragraph 25 of the first amended answer and
19 counterclaims relates to an agreement between Ariosa and Illumina and includes specifics regarding the
20 terms of the agreement. Docket No. 30-1, Walter Decl. ¶ 1. The agreement contains a confidentiality
21 provision stating that the agreement, including its terms and conditions, is confidential. Docket No. 26-
22 1, Gindler Decl. ¶ 3. Illumina explains that paragraph 25 of the first amended answer and counterclaims
23 discloses confidential information regarding intellectual property and Ariosa’s obligations with regard
24 to the intellectual property under the Supply Agreement. Docket No. 30-1, Walter Decl. ¶ 2. Illumina
25 argues that public disclosure of this information could cause it competitive harm because it could be
26 misused by potential customers and/or competitors in negotiations with Illumina or other suppliers. *Id.*
27 After reviewing the declaration and paragraph 25, the Court concludes that Illumina has sufficiently
28 articulated compelling reasons for sealing the requested paragraph.

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In addition, Illumina’s request to seal is narrowly tailored because it seeks to redact only the sealable information from the pleading, and Illumina has attached a properly redacted version of the first amended answer and counterclaims to its motion to seal. Accordingly, the Court GRANTS plaintiff’s motion to seal. Docket No. 30.

IT IS SO ORDERED.

Dated: July 2, 2014



SUSAN ILLSTON
United States District Judge