

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

ZAK HURICKS, et al.,  
Plaintiffs,  
v.  
SHOPKICK, INC.,  
Defendant.

No. C 14-2464 MMC

**ORDER GRANTING IN PART AND  
DEFERRING RULING IN PART ON  
PLAINTIFFS' ADMINISTRATIVE  
MOTION TO SEAL RE: OPPOSITION  
TO MOTION FOR SUMMARY  
JUDGMENT**

Before the Court is plaintiffs' "Unopposed Administrative Motion Pursuant to Civil L.R. 79-5(d) to Seal Confidential Documents Related to Their Opposition to Shopkick's Motion for Summary Judgment," filed May 25, 2015, by which plaintiffs seeks permission to file under seal five documents submitted in connection with their opposition to defendant's motion for summary judgment, on the ground each such document includes or makes reference to material defendant has designated as confidential. In response thereto, defendant has filed two declarations in support of the administrative motion. Having read and considered the parties' respective written submissions, the Court rules as follows.

With respect to Exhibit B to the Declaration of George Edwards, the motion is hereby GRANTED, as defendant has shown the entirety thereof consists of material properly filed under seal.

With respect to each of the other four documents identified by plaintiffs, however,


1 specifically, (1) Exhibit A to the Declaration of Leeor Neta, (2) Exhibit B to the Declaration  
2 of Leeor Neta, (3) plaintiffs' opposition to defendant's motion for summary judgment, and  
3 (4) Paragraphs 19 through 51 of the Declaration of George Edwards, the motion is not  
4 "narrowly tailored to seek sealing only of sealable material." See Civil L.R. 79-5(a).

5 As to the first, second and third of the above-identified four documents, the motion to  
6 seal is overbroad; although defendant has sufficiently shown each such document includes  
7 material properly filed under seal, each such document also includes material that is not  
8 sealable.<sup>1</sup> As to the paragraphs in the fourth of the above-identified documents, the motion  
9 to seal likewise is overboard; although defendant has sufficiently shown the paragraphs  
10 plaintiffs seek to file under seal include material properly filed under seal, those paragraphs  
11 also include material that is not sealable.<sup>2</sup>

12 In lieu of denial of the motion as it pertains to the above-referenced four documents,  
13 the Court hereby DEFERS ruling thereon in order to afford defendant the opportunity to file,  
14 no later than June 12, 2015, a supplemental declaration or other response in which  
15 defendant identifies with greater particularity the sections of each of the above-referenced  
16 four documents that are sealable.<sup>3</sup>

17 **IT IS SO ORDERED.**

18 Dated: June 5, 2015

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MAXINE M. CHESNEY  
United States District Judge

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21 <sup>1</sup>For example, Exhibit A to the Neta Declaration includes testimony about the types  
22 of rewards a user of defendant's application can receive (see Neta Decl. Ex. A at 119:6-  
23 24), Exhibit B to the Neta Declaration includes testimony about what a user of the  
24 application may see on the screen of a telephone (see id. Ex. B at 50), and plaintiffs'  
25 opposition to the motion for summary judgment includes sections in which purely legal  
26 argument is made, as well as argument discussing evidence in the record that is not  
27 confidential (see, e.g., Pl.s' Opp. at 17:13 - 22:23).

28 <sup>2</sup>For example, the subject portion of the Edwards Declaration identifies statements  
made on public websites by third parties about the characteristics of products sold by those  
third parties. (See Edwards Decl. ¶ 39.)

<sup>3</sup>Exhibit B to the Neta Declaration includes five pages that defendant "de-  
designated" as confidential after plaintiffs' motion to seal was filed. (See Buckley Decl.,  
filed June 3, 2015, at 2:26-28.) No further statement need be made as to that material.