

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

SHENZHENSHI HAITIECHENG SCIENCE)	Case No. CV 15-cv-00797-SC
AND TECHNOLOGY CO., LTD.,)	
Plaintiffs,)	ORDER GRANTING IN PART AND
v.)	DENYING IN PART MOTION TO FILE
REARDEN, LLC; REARDEN MOVA, LLC;)	<u>UNDER SEAL</u>
MO2, LLC; MOVA, LLC,)	
Defendants.)	

Defendants have filed a motion to seal documents (or portions of documents) submitted in support of their motion for summary judgment. ECF No. 34 ("Mot. to Seal"). Defendants' motion is not adequately limited to sealable material and does not follow the Civil Local Rules. Nonetheless, a small amount of the information Defendants seek to seal is indeed sealable. As a result, Defendants' motion to seal is GRANTED in part and DENIED in part.

This case is about who owns the "MOVA Assets" -- a set of hardware, software, intellectual property, and other assets used in motion pictures and video games. Plaintiff Shenzhenhai claims that it bought the MOVA Assets from an entity controlled by Greg LaSalle, a former employee of Defendant Rearden LLC ("Rearden").

1 The parties are in the process of briefing Defendants' motion for
2 summary judgment on Defendants' counterclaim for declaratory
3 relief. ECF No. 35 ("MSJ"). Defendants' motion for summary
4 judgment argues, in part, that "undisputed facts show that LaSalle,
5 under the express terms of his contract with Rearden, could never
6 have owned the MOVA Assets; thus LaSalle could not have transferred
7 them to Shenzheshi." Id. at 1. Defendants have filed a motion to
8 seal documents submitted in support of their motion for summary
9 judgment.

10 "Courts have recognized 'a general right to inspect and copy
11 public records and documents, including judicial records and
12 documents.'" Kamakana v. City & Cnty. of Honolulu, 447 F.3d 1172,
13 1178 (9th Cir. 2006) (citing Nixon v. Warner Commc'ns, Inc., 435
14 U.S. 589, 597 & n.7 (1978)). A party seeking the sealing of
15 judicial records must therefore articulate justifications for
16 sealing that outweigh the public policies favoring disclosure.
17 Further, motions for sealing must be narrowly tailored to include
18 only sealable material. Id. at 1178-79.

19 Here, the standard for sealing records filed in connection
20 with Defendants' motion for summary judgment is particularly high
21 because "resolution of a dispute on the merits, whether by trial or
22 summary judgment, is at the heart of the interest in ensuring the
23 'public's understanding of the judicial process and of significant
24 public events.'" Id. at 1179 (9th Cir. 2006) (quoting Valley
25 Broad. Co. v. U.S. Dist. Court for Dist. of Nev., 798 F.2d 1289,
26 1294 (9th Cir. 1986)). Accordingly, Defendants must demonstrate
27 with specific facts that compelling reasons support the
28 preservation of secrecy. Id. Conclusory statements concerning

1 hypothetical harm that may result from public disclosure of such
2 documents fail to carry this burden. Id. at 1182-84. Further, the
3 Civil Local Rules specify that administrative motions to file
4 documents under seal must be accompanied by (A) a declaration
5 establishing that the document or portions thereof is sealable; (B)
6 a proposed order that is narrowly tailored to seal only the
7 sealable material, and which lists in table format each document or
8 portion thereof that is sought to be sealed. Civil L.R. 79-5.
9 Defendants' motion is not narrowly tailored and the supporting
10 declaration is insufficient to establish that the information is
11 sealable.

12 As to Exhibit A (Employment Agreement and Proprietary
13 Information and Inventions Agreement between Rearden LLC and
14 LaSalle), Defendants seek to redact Mr. LaSalle's salary
15 information and information relating to their human resource
16 management services and arbitration agreement. In their supporting
17 declaration, Defendants argue that redaction of this information is
18 necessary "both to respect the employees' privacy and because
19 public knowledge of the agreements' terms, including but not
20 limited to compensation information, could enable competitors to
21 compete against Rearden more effectively." Declaration of Stephen
22 G. Perlman ("Perlman Decl.") at 1. The Court will allow redactions
23 of Mr. LaSalle's confidential salary information. With respect to
24 all other redactions in Exhibit A, Defendants' reasons are neither
25 specific nor compelling. Defendants motion as to these redactions
26 is DENIED.

27 As to Exhibits B and C, Defendants ask the Court to seal
28 emails "relating to . . . business plans . . . subject to

1 contractual confidentiality obligations to OL2, and OL2 and/or its
2 successors might consider public disclosure of these exhibits a
3 breach of those obligations." Id. at 1. Defendants' justification
4 is vague, conclusory, and hypothetical. Without more information,
5 the Court cannot find that the Defendants' reasons are sufficiently
6 compelling to outweigh the public policies favoring disclosure. In
7 addition, Defendants' request is not narrowly tailored as it seeks
8 to seal the communications in their entirety without explaining why
9 more limited redactions would be insufficient. Defendants' motion
10 as to these exhibits is DENIED.

11 As to Exhibits F-K, Defendants ask the Court to seal emails
12 among Mr. LaSalle and other Rearden employees relating to Mr.
13 LaSalle's departure from the company. Defendants state that

14 These emails contain personal notes and sensitive details
15 about the terms of LaSalle's employment and separation.
16 Rearden does not make a practice of publicly disclosing
17 internal discussions regarding personnel matters both to
18 respect the employees' privacy and because public
19 knowledge of the substance of the discussions . . . could
20 enable competitors to compete against Rearden more
21 effectively.

22 Id. Defendants' boilerplate justification regarding the
23 competitive effect of revealing these communications is unavailing.
24 Further, the "personal" and "sensitive" nature of the emails are
25 not compelling reasons sufficient to outweigh the public policies
26 favoring disclosure. See Foltz v. State Farm Mut. Ins. Co., 331
27 F.3d 1122, 1136 (9th Cir. 2003) (holding that the potential for
28 embarrassment, incrimination, or exposure to litigation through the
public disclosure of information is not, without more, sufficient
for court protection). Defendants' motion as to these exhibits and

1 the corresponding redacted sections in their motion for summary
2 judgment is DENIED.

3 Defendants' motions to file under seal are GRANTED or DENIED
4 as described in the table below:

ECF No. (Description)	Ruling on Motion to File Under Seal
34-4 (unredacted MSJ)	DENIED
34-6 (unredacted Ex. A)	GRANTED IN PART as to Mr. LaSalle's salary information DENIED as to all other redactions
34-7 (Ex. B)	DENIED
34-8 (Ex. C)	DENIED
34-9 (Ex. F)	DENIED
34-10 (Ex. G)	DENIED
34-11 (Ex. H)	DENIED
34-12 (Ex. I)	DENIED
34-13 (Ex. J)	DENIED
34-14 (Ex. K)	DENIED

15 For the foregoing reasons, the Defendants' motion to seal is
16 GRANTED in part and DENIED in part. As to Exhibits F-K and
17 Defendants' motion for summary judgment, the Court will not
18 consider these documents unless an unredacted version is filed
19 within seven (7) days. See Civil L.R. 79-5(f). As to Exhibits A-
20 C, the Court hereby ORDERS that Defendants may within seven (7)
21 days file either (1) an unredacted version, or (2) a revised motion
22 to file these documents under seal that properly tailors the

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1 redactions to sealable material and adequately explains the
2 compelling reasons for sealing the material.

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4 IT IS SO ORDERED.

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6 Dated: June 23, 2015



7 UNITED STATES DISTRICT JUDGE

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