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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

AUTODESK, INC.,
Plaintiff,
v.
JOSEPH ALTER, et al.,
Defendants.

Case No. [16-cv-04722-WHO](#)

**ORDER RE ADMINISTRATIVE
MOTION TO SEAL**

Dkt. No. 94

Autodesk has filed a motion to seal in conjunction with its First Amended Complaint (“FAC”). Dkt. No. 94. It seeks to seal one document that it has designated confidential, Exhibit B, two documents designated confidential by Alter, Exhibits E & F, and redacted portions of the FAC, where is quotes language from Exhibits E & F. *Id.* Because these documents are all related to Autodesk’s FAC, they are central to the merits of Autodesk’s claims against Alter and the compelling justification standard for sealing applies. *See Ctr. for Auto Safety v. Chrysler Grp., LLC*, 809 F.3d 1092, 1101 (9th Cir. 2016), *cert. denied sub nom. FCA U.S. LLC v. Ctr. for Auto Safety*, 137 S. Ct. 38 (2016); *Krieger v. Atheros Comm’cns, Inc.*, No. 11-CV-00640-LHK, 2011 WL 2550831, at *1 (N.D. Cal. Jun. 25, 2011) (applying compelling justifications standard to request to file First Amended Complaint and related exhibits under seal).

Requests to seal must be narrowly tailored to cover only specific portions of documents containing truly confidential and highly sensitive information. Under Local Rule 79-5, the party designating certain documents as confidential must file a declaration in support of any administrative motion to seal those documents. L.R. 79-5(d)(1); 79-5(e)(1). Sealing declarations should be made by individuals with knowledge, which generally means the clients seeking to protect their information, not their attorneys. They must be supported by specific factual findings rather than conclusory assertions of harm. *See generally* WHO Standing Order on Administrative

1 Motions to Seal (Effective 6/2014).

2 Under the compelling reasons standard, a court may only seal records if it finds “a
3 compelling reason and articulate[s] the factual basis for its ruling, without relying on hypothesis or
4 conjecture.” *Kamakana v. City & Cnty. of Honolulu*, 447 F.3d 1172, 1179 (9th Cir. 2006). The
5 court must “conscientiously balance[] the competing interests of the public and the party who
6 seeks to keep certain judicial records secret.” *Foltz v. State Farm Mut. Auto. Ins. Co.*, 331 F.3d
7 1122, 1135 (9th Cir. 2003). Some compelling reasons that might justify sealing records include
8 when the court record might be abused to “gratify private spite or promote public scandal” or
9 when the record contains “sources of business information that might harm a litigant’s competitive
10 standing.” *Nixon v. Warner Commc’ns, Inc.*, 435 U.S. 589, 598-99 (1978). This is a higher
11 standard than the “good cause” standard which permits sealing of documents that might cause a
12 litigant annoyance, embarrassment, oppression, or undue burden or expense, and which applies to
13 documents filed in conjunction with discovery motions unrelated to the merits of a case. *Ctr. for*
14 *Auto Safety*, 809 F.3d at 1097.

15 Autodesk has filed a declaration from one of its attorneys in support of sealing Exhibit B, a
16 confidential licensing agreement between Autodesk and Disney. *See* Huckelbridge Decl. (Dkt.
17 No. 94-2). Huckelbridge asserts that the license agreement contains “confidential business
18 information” that has not been shared with Autodesk’s competitors, customers, or with the general
19 public, and that disclosure of this information “would cause serious competitive and business
20 harm to Autodesk by giving third parties the opportunity to benefit from Autodesk’s proprietary
21 information.” Huckelbridge Decl. ¶ 4. He also asserts that Exhibit B contains “proprietary Disney
22 information that Autodesk is contractually required to keep confidential.” *Id.* Huckelbridge’s
23 vague and conclusory statements that Autodesk will be harmed if the license agreement is released
24 are not sufficient to meet the compelling justification standard and justify sealing the entire
25 licensing agreement. Further, while Autodesk may have a contractual obligation to keep
26 information in the licensing agreement confidential, such an obligation does not, on its own, meet
27 the compelling reasons standard. *See e.g., No Cost Conference, Inc. v. Windstream Comm’cns,*
28 *Inc.*, 940 F.Supp.2d 1285 (S.D. Cal. 2013) (fact that document was covered by confidentiality

1 agreement was insufficient to meet compelling reasons test).

2 Autodesk’s conclusory declaration is not sufficient to meet the compelling justification
3 standard. Autodesk has not distinguished between its own proprietary information and Disney’s,
4 has not provided specific factual explanations as to how it will be harmed if this information is
5 released, and, has not made a credible effort to narrowly tailor its request, requesting instead to
6 seal the entirety of the licensing agreement. Autodesk may file a supplemental, narrowly tailored
7 request to seal Exhibit B. Any declaration should be filed by someone with knowledge. With
8 regard to Disney’s proprietary information, that may require Disney filing a separate declaration in
9 support of the sealing. Autodesk will have until August 4, 2017 to file a supplemental declaration
10 in support of sealing Exhibit B; otherwise, it will be unsealed without further order.

11 The remaining three documents, Exhibit E, F, and the FAC contain information that has
12 been designated confidential by Alter. Exhibits E and F are emails between Alter and Disney
13 discussing, in broad terms, a settlement agreement between Disney and Alter, and the FAC
14 contains quotes from these documents. Under Local Rule 79-5, the designating party must file a
15 declaration in support of sealing any confidential information within four days of the filing of the
16 sealing motion. Alter has not filed any declaration in support of sealing these documents and it
17 does not appear that there are compelling reasons to seal any information in Exhibit E, Exhibit F,
18 or the FAC. The request to seal these documents is DENIED.

19 The current disposition of the sealing motion is summarized in the chart below.

20

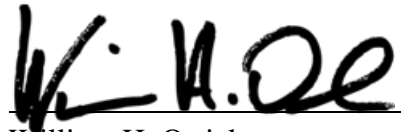
21 Dkt. No. 94						
22 Autodesk’s First Amended Complaint						
23 for Declaratory Judgment and Breach						
24 of Contract						
25 Document	26 Dkt.	27 Portions of	28 Desig-	Sealing	Basis for Sealing	Ruling
Sought to Be	No.	Document	nating	Decl.		
Sealed		Sought to	Party			
		Be Sealed				
First Amended	94-5	Redacted	Joseph	None	Protective Order	DENIED –
Complaint		Portions	Alter,			Unseal
			Inc. &			
			Joseph			
			Alter			

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Exhibit B to First Amended Complaint	94-6	Entire Document	Autodesk / Disney	Huckelbridge Decl. Dkt. No. 94-2	Confidential business information regarding a license between Autodesk and Disney. Proprietary third party information that Autodesk is contractually required to keep confidential.	DENIED – Remain Sealed
Exhibit E to First Amended Complaint	94-7	Entire Document	Joseph Alter, Inc. & Joseph Alter	None	Protective Order	DENIED – Unseal
Exhibit F to First Amended Complaint	94-8	Entire Document	Joseph Alter, Inc. & Joseph Alter	None	Protective Order	DENIED – Unseal

IT IS SO ORDERED.

Dated: July 21, 2017



William H. Orrick
United States District Judge