

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

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

SWARMIFY, INC.,

No. C 17-06957 WHA

Plaintiff,

v.

**ORDER DENYING  
ADMINISTRATIVE MOTION  
TO FILE UNDER SEAL**

CLOUDFLARE, INC.,

Defendant.

---

On February 27, an order filed under seal denied plaintiff Swarmify, Inc.'s motion for a preliminary injunction (Dkt. No. 83). A concurrently-filed order explained that the first order would remain under seal until March 2 at noon, after which it would be unsealed and filed on the public docket with only the Court's own redactions unless one or more parties proposed additional redactions via an administrative motion to file under seal (Dkt. No. 84). No party so moved. After the noon deadline passed, on March 2 at 1:48 p.m., another notice issued, informing the parties that the February 27 order would be unsealed and filed on the public docket with only the Court's own redactions unless one or more parties filed an objection by 4:00 p.m. that day (Dkt. No. 87). No party objected. At 4:06 p.m., the order was unsealed and filed on the public docket with only the Court's own redactions.

A week later, on March 9, Swarmify filed an administrative motion to further redact the public version of the February 27 order (Dkt. No. 89). The administrative motion makes no attempt to explain why Swarmify missed both the noon and 4:00 p.m. deadlines on March 2 and

1 allowed the February 27 order to remain on the public docket for a whole week before  
2 requesting additional redactions. The untimeliness of the administrative motion is sufficient  
3 reason to deny the requested relief.

4 Even if it had been timely, however, the administrative motion would still be denied.  
5 *First*, Swarmify cites a “good cause” standard, but compelling reasons are required to justify  
6 sealing of court records where, as here, the underlying motion was more than tangentially  
7 related to the merits of the case. *See Ctr. for Auto Safety v. Chrysler Grp., LLC*, 809 F.3d 1092,  
8 1101 (9th Cir. 2016). *Second*, Swarmify claims it seeks to redact “confidential, proprietary, and  
9 trade secret” information, but the information it seeks to redact — the specific dollar amount for  
10 which Swarmify previously offered to sell its assets to defendant Cloudflare, Inc. — does not  
11 constitute a trade secret. That Swarmify would suggest otherwise is astonishing. *Third*, even if  
12 that dollar amount was previously confidential, it no longer remains so because, as stated,  
13 Swarmify missed two deadlines to request its redaction and allowed it to remain on the public  
14 docket for a week thereafter before belatedly seeking relief. *Fourth*, even if the dollar amount  
15 was still confidential, the declaration Swarmify submitted in support of sealing contained only  
16 conclusory assertions to the effect that disclosure of that dollar amount would disadvantage  
17 Swarmify in future licensing or acquisition talks with other parties (*see* Dkt. No. 89-1 ¶¶ 5–7).  
18 Swarmify’s attempts to negotiate with Cloudflare form the backbone of Swarmify’s allegations.  
19 As we have already seen on the motion for a preliminary injunction, the details of those  
20 attempts bear directly on the value of Swarmify’s alleged trade secrets and on the circumstances  
21 giving rise to its claims for relief. Swarmify has shown no compelling reason that would  
22 outweigh the public’s right to access and justify sealing here.

23 For all the foregoing reasons, Swarmify’s administrative motion is **DENIED**.

24  
25 **IT IS SO ORDERED.**

26  
27 Dated: March 21, 2018.

28   
WILLIAM ALSUP  
UNITED STATES DISTRICT JUDGE