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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

WENDUO GUO,
Plaintiff,
v.
NICHOLAS WOODMAN, et al.,
Defendants.

Case No. [18-cv-00920-MEJ](#)
ORDER RE: MOTION TO FILE UNDER SEAL
Re: Dkt. No. 7

INTRODUCTION

Plaintiff Wenduo Guo moves to file under seal portions of his Complaint that contain information which Defendant GoPro, Inc. designated as confidential pursuant to a Confidentiality and Non-Disclosure Agreement (the “Agreement”). Mot., Dkt. No. 7; *see* Compl., Dkt. No. 1; Unredacted Compl., Dkt. No. 11-2. Having considered the parties’ arguments and the relevant legal authority, the Court issues the following order.

LEGAL STANDARD

There is a “strong presumption in favor of access” by the public to judicial records and documents accompanying dispositive motions. *Kamakana v. City & Cty. of Honolulu*, 447 F.3d 1172, 1178-79 (9th Cir. 2006) (citing *Foltz v. State Farm Mut. Auto. Ins. Co.*, 331 F.3d 1122, 1135 (9th Cir. 2003)). To seal judicial records relating to motions that are “more than tangentially related to the merits of a case,” *Center for Auto Safety v. Chrysler Grp., LLC*, 809 F.3d 1092, 1098 (9th Cir.), *cert. denied sub nom. FCA U.S. LLC v. Ctr. for Auto Safety*, 137 S. Ct. 38 (2016), a party must “articulate compelling reasons supported by specific factual findings,” *Kamakana*, 447 F.3d at 1178 (internal quotation marks and citation omitted). Indeed, such showing is required even where “the [] motion, or its attachments, were previously filed under seal or protective

1 order.” *Kamakana*, 447 F.3d at 1179.

2 The strong presumption of public access to judicial documents applies to such motions
3 because the resolution of a dispute on the merits is at the heart of the interest in ensuring that the
4 public understands the judicial process. *Id.* The presumption does not apply in the same way to
5 motions that are “not related, or only tangentially related, to the merits of a case.” *Center for Auto*
6 *Safety*, 809 F.3d at 1099. With such motions, “the usual presumption of the public’s right of
7 access is rebutted.” *Id.* at 1179 (citing *Phillips v. Gen. Motors Corp.*, 307 F.3d 1206, 1213 (9th
8 Cir. 2002)). A party seeking to seal documents attached to such motions nevertheless must meet
9 the lower “good cause” standard under Rule 26(c). *Pintos v. Pac. Creditors Ass’n*, 605 F.3d 665,
10 678 (9th Cir. 2010). This requires the party to make a “particularized showing” that “specific
11 prejudice or harm” will result if the information is disclosed. *Phillips*, 307 F.3d at 1211. “Broad
12 allegations of harm, unsubstantiated by specific examples or articulated reasoning, do not satisfy
13 the Rule 26(c) test.” *In re Roman Catholic Archbishop of Portland in Or.*, 661 F.3d 417, 424 (9th
14 Cir. 2011) (internal quotation marks and edits omitted).

15 Civil Local Rule 79-5(b) also requires that a sealing request “must be narrowly tailored to
16 seek sealing only of sealable material.” “Where a party seeks to file under seal a document
17 designated as confidential by the opposing party pursuant to a protective order, the designating
18 party must submit a declaration establishing the material sought to be sealed is sealable. Civ. L.R.
19 79-5(e)(1).

20 DISCUSSION

21 The Court applies the compelling reasons standard to this sealing request. *See Ojmar US,*
22 *LLC v. Sec. People, Inc.*, 2016 WL 6091543, at *2 (N.D. Cal. Oct. 19, 2016) (“Although the Ninth
23 Circuit appears not to have explicitly stated what standard applies to the sealing of a complaint,
24 many courts in this district and elsewhere have found that the compelling reasons standard
25 applies.” (collecting cases)).

26 GoPro counsel Marie Bafus declares the proposed redactions “purport[] to refer to, quote,
27 and characterize documents produced by GoPro” at Plaintiff’s request and pursuant to the
28 Agreement. Bafus Decl. ¶¶ 3-4, Dkt. No. 11; *see* Agreement, Dkt. No. 7-2. The information

1 contained therein is “competitively sensitive” and relates to “product-specific financial sales and
2 information, as well as product-specific marketing and launch strategies” which GoPro “takes
3 great measure to keep . . . confidential.” Bafus Decl. ¶ 4. The proposed redactions also concern
4 “confidential information contained in Board meeting agendas, minutes, packages, and
5 presentations” and “product information regarding GoPro’s Karma product[.]” *Id.* ¶ 7. If made
6 public, this information would provide GoPro’s competitors with insight as to “GoPro’s business
7 strategy . . . , GoPro’s and its suppliers’ capacity to build certain products, . . . the value of
8 GoPro’s business in certain product areas[.]” and information and marketing strategies. *Id.* ¶ 9.
9 This would allow competitors to compete more effectively against GoPro and cause GoPro
10 competitive harm. *Id.*

11 GoPro has demonstrated specific harm may result if this confidential information is made
12 public and thus has established compelling reasons for sealing. *See, e.g., In re Google Inc. Gmail*
13 *Litig.*, 2014 WL 10537440, at *5 (N.D. Cal. Aug. 6, 2014) (finding compelling reasons support
14 sealing where moving party established specific ways information could cause harm if publicly
15 disclosed). Moreover, the proposed redactions are narrowly tailored. *See* Civ. L.R. 79-5(b).
16 Accordingly, the Court **GRANTS** the Motion to Seal.

17 **IT IS SO ORDERED.**

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19 Dated: February 21, 2018

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22 MARIA-ELENA JAMES
23 United States Magistrate Judge
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