

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

3
4 ADOBE SYSTEMS INCORPORATED,

No. C 10-2769 CW

5 Plaintiff,

ORDER GRANTING
MOTION TO FILE

6 v.

UNDER SEAL
(Docket No. 145)

7 HOOPS ENTERPRISE LLC; and ANTHONY
8 KORNRUMPF,

9 Defendants.

10 _____/
11 AND ALL RELATED CLAIMS
12 _____/

13 Defendants and Counter-claimants Hoops Enterprise LLC and
14 Anthony Kornrumpf seek to file under seal Exhibit B to their
15 Opposition to Plaintiff Adobe Systems Incorporated's Motion for
16 Partial Summary Judgment.

17 In their declaration in support of their motion, Defendants
18 represent that Exhibit B is a settlement agreement that the
19 parties had executed to settle prior litigation between them and
20 state, "As part of the terms of the settlement agreement, the
21 parties agreed to keep the settlement confidential." Boyce Decl.

22 ¶ 4.

23 Plaintiff has also filed a declaration in support of
24 Defendants' motion. In the declaration, Plaintiff states, "The
25 Document is sealable because it contains privileged and sensitive
26 contract terms and language that was negotiated between the
27 Parties in connection with settlement of a previous litigation.

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1 Information included in the Document is not otherwise known
2 publicly and may be different than settlements achieved in other
3 Adobe litigation." Coombs Decl. ¶ 3.

4 Defendants' filing is connected to a dispositive motion. To
5 do establish that the document is sealable, the parties "must
6 overcome a strong presumption of access by showing that
7 'compelling reasons supported by specific factual findings . . .
8 outweigh the general history of access and the public policies
9 favoring disclosure.'" Pintos v. Pac. Creditors Ass'n, 605 F.3d
10 665, 679 (9th Cir. 2010) (citation omitted). This cannot be
11 established simply by showing that the document is subject to a
12 protective order or by stating in general terms that the material
13 is considered to be confidential, but rather must be supported by
14 a sworn declaration demonstrating with particularity the need to
15 file each document under seal. Civil Local Rule 79-5(a).

16 Review of the settlement agreement and the parties'
17 declarations makes clear that the document reveals information
18 that would not otherwise be known or available to the public and
19 that filing under seal is necessary to preserve the
20 confidentiality to which the parties assented as part of their
21 agreement to settle the earlier action. Thus, the Court finds
22 that the parties have established that the settlement agreement is
23 sealable. See Phillips v. GMC, 307 F.3d 1206, 1212 (9th Cir.
24 2002) (noting that "courts have granted protective orders to
25 protect confidential settlement agreements"); Prosurance Group,
26 Inc. v. Liberty Mut. Group, Inc., 2011 U.S. Dist. LEXIS 22365, at
27 *3-4 (N.D. Cal.) (granting motion to seal to protect
28 confidentiality of terms of a settlement agreement).

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Accordingly, Defendants' motion to file under seal is GRANTED (Docket No. 145). Within four days of the date of this Order, Defendants shall file under seal Exhibit B to their Opposition.

IT IS SO ORDERED.

Dated: 1/4/2012



CLAUDIA WILKEN
United States District Judge