

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

CABELA'S INC., No. C 11-1398 CW

Plaintiff,

v.

KELORA SYSTEMS, LLC,

Defendant.

KELORA SYSTEMS, LLC, No. C 11-1548 CW

Plaintiff,

v.

TARGET CORPORATION; OFFICEMAX
INCORPORATED; ROCKLER COMPANIES,
INC.; 1-800-FLOWERS.COM, INC.;
AMAZON.COM, INC.; DELL, INC.;
OFFICE DEPOT, INC.; NEWEGG INC.;
COSTCO WHOLESALE CORPORATION;
HEWLETT-PACKARD COMPANY;
CIRCUITCITY.COM INC; AUDIBLE,
INC.; and ZAPPOS.COM, INC.,

Defendants.

OFFICEMAX INCORPORATED,

Third-Party Plaintiff,

v.

ADOBE SYSTEMS INCORPORATED,

Third-Party Defendant.

United States District Court
For the Northern District of California

1 NEBRASKA FURNITURE MART, INC.,

2 Plaintiff,

3 v.

4 KELORA SYSTEMS, LLC,

5 Defendant.

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9 AND ALL RELATED COUNTERCLAIMS

10 _____/

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12 On October 21, 2011, Kelora Systems, LLC filed an amended
13 administrative motion seeking an order sealing the Declaration of
14 Shawn G. Hansen, submitted in support of Kelora Systems, LLC's
15 Opposition to Defendants' Claim Construction Brief and Motion for
16 Summary Judgment of Invalidity and Non-Infringement, and Exhibits
17 A through E attached to the declaration. In support of its
18 motion, Kelora Systems, LLC offered a declaration stating that
19 various other parties and non-parties to this action had
20 designated the exhibits to be confidential or may consider them to
21 be so. Hansen Decl. ¶¶ 4-8, 11.

22 On October 28, 2011, Nebraska Furniture Mart, a party to this
23 action who had designated Exhibits A and E as confidential, filed
24 a declaration stating that it was withdrawing its designation of
25 confidentiality as to Exhibit A, that it had designated Exhibit E
26 as confidential at the request of Endeca Technologies, Inc.
27 (Endeca), a non-party to this action, and that it believed that
28 Endeca would separately file a declaration to support the sealing

No. C 11-2284 CW

ORDER GRANTING IN
PART, AND DENYING
IN PART, AMENDED
ADMINISTRATIVE
MOTION OF KELORA
SYSTEMS, LLC TO
FILE UNDER SEAL
THE DECLARATION OF
SHAWN G. HANSEN
AND EXHIBITS A
THROUGH E
(Docket No. 393)

1 of Exhibit E. Song Decl. ¶¶ 3-5. On the same date, Endeca filed
2 a declaration providing reasons supporting the sealing of Exhibit
3 E. Merhar Decl. ¶¶ 5-7. On that date, Cabela's Inc. and Newegg
4 Inc., parties to this action, also filed declarations providing
5 reasons supporting the sealing of Exhibits B through D. Balduaf
6 Decl. ¶¶ 3-5; Akbar Decl. ¶¶ 3-6.

7 Kelora Systems, LLC's filings are connected to a dispositive
8 motion. Because other parties designated the documents at issue
9 as confidential, they must file a declaration establishing that
10 the documents are sealable. Civ. L.R. 79-5(d). To do so, they
11 "must overcome a strong presumption of access by showing that
12 'compelling reasons supported by specific factual findings . . .
13 outweigh the general history of access and the public policies
14 favoring disclosure.'" Pintos v. Pac. Creditors Ass'n, 605 F.3d
15 665, 679 (9th Cir. 2010) (citation omitted). This cannot be
16 established simply by showing that the document is subject to a
17 protective order or by stating in general terms that the material
18 is considered to be confidential, but rather must be supported by
19 a sworn declaration demonstrating with particularity the need to
20 file each document under seal. Civ. Local R. 79-5(a).

21 No party or non-party has filed a declaration establishing
22 that the Declaration of Shawn G. Hansen or Exhibit A thereto is
23 sealable. Accordingly, Kelora System, LLC's motion is DENIED to
24 the extent that it pertains to the Hansen Declaration and
25 Exhibit A.

26 Cabela's Inc., Newegg Inc. and Endeca Technologies, Inc.,
27 however, have provided reasons supporting the sealing of the
28 Exhibits B through E of the Hansen Declaration, which Kelora

1 System, LLC filed along with its opposition to Defendants' claim
2 construction brief and motion for summary judgment. Accordingly,
3 Kelora Systems, LLC's motion for leave to file documents under
4 seal is GRANTED to the extent it pertains to the Exhibits B
5 through E.

6 Within four days of the date of this Order, Kelora Systems,
7 LLC may electronically file the Hansen Declaration and Exhibit A
8 in the public record, or may withdraw them, and may file Exhibits
9 B through E under seal, in accordance with General Order 62. Civ.
10 L.R. 79-5(e).

11 IT IS SO ORDERED.

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13 Dated: 11/2/2011


CLAUDIA WILKEN
United States District Judge

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