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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

SYNCHRONOSS TECHNOLOGIES, INC.,

Plaintiff,

v.

DROPBOX INC., et al.,

Defendants.

Case No. [16-cv-00119-HSG](#)

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

Re: Dkt. No. 245

On August 6, 2018, Dropbox filed a motion to modify the scheduling order. Dkt. No. 198. Synchronoss filed its opposition on August 20, 2018, see Dkt. No. 205, and Dropbox filed its reply on August 27, 2018, see Dkt. No. 213. With its motion to modify the scheduling order and reply to Synchronoss's opposition, Dropbox filed administrative motions to file under seal portions of the filings. See Dkt. Nos. 197, 212. On November 15, 2018, the Court denied in part Dropbox's sealing requests. Dkt. No. 242. On November 21, 2018, Dropbox filed a renewed administrative motion to file under seal portions of its motion to modify the scheduling order and its reply to Synchronoss's opposition. Dkt. No. 245.

I. LEGAL STANDARD

For motions to seal that comply with the local rules, courts generally apply a "compelling reasons" standard. *Pintos v. Pac. Creditors Ass'n*, 605 F.3d 665, 677–78 (9th Cir. 2010). "This standard derives from the common law right 'to inspect and copy public records and documents, including judicial records and documents.'" *Id.* (quoting *Kamakana v. City & Cty. of Honolulu*, 447 F.3d 1172, 1178 (9th Cir. 2006)). "Unless a particular court record is one traditionally kept secret, a strong presumption in favor of access is the starting point." *Kamakana*, 447 F.3d at 1178 (quotation marks and citation omitted). To overcome this strong presumption, the moving party must "articulate compelling reasons supported by specific factual findings that outweigh the

1 general history of access and the public policies favoring disclosure, such as the public interest in
2 understanding the judicial process.” Id. at 1178–79 (citations, quotation marks, and alterations
3 omitted). “In general, compelling reasons sufficient to outweigh the public’s interest in disclosure
4 and justify sealing court records exist when such court files might have become a vehicle for
5 improper purposes, such as the use of records to gratify private spite, promote public scandal,
6 circulate libelous statements, or release trade secrets.” Id. at 1179 (quotation marks and citation
7 omitted). The Court must:

8 balance the competing interests of the public and the party who seeks
9 to keep certain judicial records secret. After considering these
10 interests, if the Court decides to seal certain judicial records, it must
11 base its decision on a compelling reason and articulate the factual
12 basis for its ruling, without relying on hypothesis or conjecture.

13 Id. (citations, brackets, and quotation marks omitted).

14 Civil Local Rule 79-5 supplements the “compelling reasons” standard. The party seeking
15 to file under seal must submit “a request that establishes that the document, or portions thereof, are
16 privileged, protectable as a trade secret or otherwise entitled to protection under the law The
17 request must be narrowly tailored to seek sealing only of sealable material” Civil L.R. 79-
18 5(b). Courts have found that “confidential business information” in the form of “license
19 agreements, financial terms, details of confidential licensing negotiations, and business strategies”
20 satisfies the “compelling reasons” standard. See *In re Qualcomm Litig.*, No. 3:17-cv-0108-GPC-
21 MDD, 2017 WL 5176922, at *2 (S.D. Cal. Nov. 8, 2017) (observing that sealing such information
22 “prevent[ed] competitors from gaining insight into the parties’ business model and strategy”);
23 *Finisar Corp. v. Nistica, Inc.*, No. 13-cv-03345-BLF (JSC), 2015 WL 3988132, at *5 (N.D. Cal.
24 June 30, 2015).

25 Finally, records attached to motions that are only “tangentially related to the merits of a
26 case” are not subject to the strong presumption of access. *Ctr. for Auto Safety v. Chrysler Grp.*,
27 LLC, 809 F.3d 1092, 1101 (9th Cir. 2016). Accordingly, parties moving to seal such records need
28 only meet the lower “good cause” standard of Rule 26(c). Id. at 1097. The “good cause” standard
 requires a “particularized showing” that “specific prejudice or harm will result” if the information
 is disclosed. *Phillips ex rel. Estates of Byrd v. Gen. Motors Corp.*, 307 F.3d 1206, 1210–11 (9th

1 Cir. 2002) (citation and internal quotation marks omitted); see also Fed. R. Civ. P. 26(c).

2 **II. DROPBOX’S RENEWED MOTION TO FILE UNDER SEAL**

3 Dropbox filed administrative motions to file under seal portions of both its motion to
4 modify the scheduling order and its reply to Synchronoss’s opposition. See Dkt. Nos. 197, 212.
5 This Court denied Dropbox’s motions to file under seal as it related to excerpts for which
6 Synchronoss was the designating party, and for three independently sufficient reasons: (1)
7 Synchronoss failed to comply with Civil Local Rule 79-5(e)(1), because it did not file a necessary
8 Declaration within four days of Dropbox’s administrative motions, see Dkt. No. 242, at 3 n.1; (2)
9 Dropbox did not provide adequate reasons justifying the sealing requests, see id. at 3–4; and (3)
10 the sealing requests were not narrowly tailored, as the Court demonstrated with two excerpts that
11 Dropbox redacted, but which were publicly available in either Dropbox’s proposed amended
12 answer or in prior filings, see id. at 4. The Court explained that “[f]or any future motions to seal,
13 the Court expects the parties will use their best objective judgment to file motions that are
14 narrowly tailored, properly supported by declarations, and that satisfy the requisite standards.” Id.
15 at 5.

16 In its renewed motion, Dropbox provides additional reasons justifying the sealing requests.
17 See Dkt. No. 245.¹ And Synchronoss timely filed a Rule 79-5(e)(1) Declaration. See Dkt. No.
18 250. The renewed sealing requests, however, are not narrowly tailored. Neither Dropbox’s
19 renewed motion nor Synchronoss’s Declaration even addressed the two excerpts that are publicly
20 available in Dropbox’s proposed amended answer or in prior filings. See Dkt. No. 242, at 4.
21 Instead, the renewed motion requests sealing of the identical information for which Dropbox
22 requested sealing in the first instance. See Dkt. No. 245, at 2–3. The failure to address these
23 excerpts in any manner demonstrates that the parties did not “use their best objective judgment to
24 file motions that are narrowly tailored,” as is required and as the Court instructed. See Dkt. No.
25 242, at 5.

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27 _____
28 ¹ The Court does not consider whether the additional reasons adequately support the sealing requests because the failure to provide a narrowly tailored list of sealable material is dispositive on this motion.


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III. CONCLUSION

For the foregoing reasons, Dropbox’s renewed motion to file under seal is **DENIED**. The Court will not consider Dropbox’s underlying motion to modify the scheduling order unless Dropbox files an unredacted version of its motion and reply to Synchronoss’s opposition within 7 days of this order.²

IT IS SO ORDERED.

Dated: 12/4/2018


HAYWOOD S. GILLIAM, JR.
United States District Judge

² Dropbox may continue to redact portions of the filings for which BlackBerry Corporation is the designating party, as provided by this Court’s November 15, 2018 order. See Dkt. No. 242, at 4.