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4 UNITED STATES DISTRICT COURT
5 NORTHERN DISTRICT OF CALIFORNIA

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7 DOE 1,
8 Plaintiff,
9 v.
10 GOOGLE INC., et al.,
11 Defendants.

Case No. [16-cv-01876-DMR](#)

**ORDER GRANTING PLAINTIFF'S
ADMINISTRATIVE MOTION TO
PROCEED UNDER A PSEUDONYM**

Re: Dkt. No. 6

12 Plaintiff Doe 1 filed this suit seeking a declaratory judgment that an administrative
13 summons issued to Google Inc. (“Google”) seeking information about Plaintiff’s Google
14 Analytics account is invalid and unenforceable. Plaintiff now moves to proceed under a
15 pseudonym. For the following reasons, Plaintiff’s motion is granted.

16 **I. DISCUSSION**

17 Plaintiff owns and operates a Korean-language website featuring adult content (the
18 “Website”). Plaintiff’s Decl., April 28, 2016, ¶ 1. Plaintiff, who is not a Korean citizen, has never
19 operated the Website from servers located in Korea. Plaintiff states that over the last several
20 years, Korean authorities have threatened to shut down the Website and prosecute its users, staff,
21 and owners, including Plaintiff, and that as a result, Plaintiff has “consistently sought to operate
22 the Website anonymously.” Id. at ¶¶ 4-6.

23 Plaintiff states that in early April 2016, European authorities seized the servers on which
24 the Website was hosted, and that Plaintiff has learned that the seizure was at the request of Korean
25 authorities. Plaintiff states that shortly after the seizure, the Korean police announced “that 62
26 people had been booked on undisclosed charges somehow related to the Website.” Id. at ¶¶ 7, 8.
27 Several days after the seizure, while traveling internationally, Plaintiff and a companion were
28 detained and harassed by approximately 10 Korean officials, including police officers, and falsely

1 told that Plaintiff’s entry into the country had been rejected and that Plaintiff’s companion faced
2 arrest in Korea on undisclosed charges. *Id.* at ¶ 9. Plaintiff believes that Plaintiff “[is] the target
3 of a concerted effort by Korean authorities to suppress [Plaintiff’s] speech in operating the
4 Website, to suppress the speech of the Website’s users, and to capture and charge both [Plaintiff]
5 and [Plaintiff’s] traveling companion” on undisclosed charges that have no legal basis. *Id.* at ¶ 11.

6 In this lawsuit, Plaintiff challenges an administrative summons issued to Defendant Google
7 by a Department of Homeland Security (“DHS”) Special Agent based in the United States
8 Embassy in Seoul, Korea. The summons, which Plaintiff alleges is one of three summonses to
9 online service providers in the United States for information related to the Website, seeks account
10 information for a Google Analytics account for which Plaintiff is the subscriber. Plaintiff sues
11 Google and DHS, seeking a declaratory judgment that the administrative summons is invalid and
12 unenforceable.

13 Pleadings must ordinarily identify the parties to a suit. Fed. R. Civ. P. 10(a). However,
14 the Ninth Circuit has held that “a party may preserve his or her anonymity in judicial proceedings
15 in special circumstances when the party’s need for anonymity outweighs prejudice to the opposing
16 party and the public’s interest in knowing the party’s identity.” *Does I thru XXIII v. Advanced*
17 *Textile Corp.*, 214 F.3d 1058, 1068 (9th Cir. 2000). “Anonymity, however, cuts against the
18 bedrock principle that courts and judicial records are open.” *Jane Roes 1-2 v. SFBSC Mgmt.*,
19 *LLC*, 77 F. Supp. 3d 990, 993 (N.D. Cal. 2015); see also *Kamakana v. City & Cty. of Honolulu*,
20 *447 F.3d 1172, 1178* (9th Cir. 2006) (“[u]nless a particular court record is one ‘traditionally kept
21 secret,’ a ‘strong presumption in favor of access is the starting point.’” (citation omitted)). The
22 Ninth Circuit has identified three situations in which parties have been allowed to proceed
23 anonymously: (1) when identification creates a risk of retaliatory physical or mental harm; (2)
24 when anonymity is necessary to preserve privacy in a matter of a sensitive and highly personal
25 nature; and (3) when the anonymous party is compelled to admit his or her intention to engage in
26 illegal conduct, thereby risking criminal prosecution. *Advanced Textile*, 214 F.3d at 1068. In
27 cases in which a party seeks to proceed anonymously due to the risk of retaliation, courts consider
28 (1) the severity of the threatened harm; (2) the reasonableness of the anonymous party’s fears; (3)

1 the anonymous party’s vulnerability to retaliation; and (4) the prejudice to the opposing party and
2 whether proceedings may be structured to avoid that prejudice. Id. Additionally, “the court must
3 decide whether the public’s interest in the case would be best served by requiring that the litigants
4 reveal their identities.” Id.

5 Here, Plaintiff has satisfied the factors set forth by the Ninth Circuit in *Advanced Textile* to
6 support pseudonymous filing based on the risk of retaliatory physical or mental harm. As to the
7 severity of the threatened harm, Plaintiff asserts that Plaintiff and his or her companion have been
8 threatened with prosecution by the Korean authorities, and that more than 60 individuals have
9 been already been “booked” on undisclosed charges related to the Website. Accordingly,
10 Plaintiff’s personal liberty could be in danger should his or her identity be revealed. Plaintiff
11 appears to be vulnerable to retaliation and Plaintiff’s fears appear reasonable, given that the
12 servers hosting the Website have been seized, Plaintiff has personally been subjected to
13 harassment by the authorities, and the Website’s users face legal action.

14 As to prejudice to the opposing party, Plaintiff’s counsel states that he contacted Google’s
15 outside counsel and was told on April 26, 2016 that Google “does not have a position on this
16 motion.” *Halliburton Decl.*, May 27, 2016, ¶ 4. As to DHS, it seeks Plaintiff’s identifying
17 information through the administrative summons at issue. Therefore, requiring Plaintiff to reveal
18 his or her identity would defeat the purpose of the relief requested in this action. The court finds
19 that Defendants would not be prejudiced by Plaintiff proceeding anonymously. Finally, regarding
20 the public interest, the court finds that non-disclosure of Plaintiff’s identity will not obstruct the
21 public’s scrutiny of the issues in this case.

22 **II. CONCLUSION**

23 For the foregoing reasons, Plaintiff Doe 1’s administrative motion for leave to proceed
24 anonymously is granted. The Clerk of the Court is directed to issue summonses to the Defendants.

25 **IT IS SO ORDERED.**

26 Dated: July 1, 2016

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Donna I. Ryan
United States Magistrate Judge
Judge Donna I. Ryan

