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4 UNITED STATES DISTRICT COURT
5 NORTHERN DISTRICT OF CALIFORNIA
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7 OJMAR US, LLC,
8 Plaintiff,
9 v.
10 SECURITY PEOPLE, INC., et al.,
11 Defendants.

Case No. [16-cv-04948-HSG](#)

**ORDER GRANTING AND DENYING IN
PART ADMINISTRATIVE MOTIONS
TO SEAL**

Re: Dkt. Nos. 119, 124, 127

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13 Pending before the Court are three unopposed administrative motions to seal information
14 relating to Security People, Inc. (“Digilock”) and Asil Gokcebay’s (collectively, “Defendants”) motion to dismiss the second amended complaint filed by Plaintiff Ojmar U.S., LLC (“Ojmar”).
15 Dkt. Nos. 119, 124, 127. The Court **GRANTS** Defendants’ administrative motions to seal and
16 **DENIES** in part Plaintiff’s administrative motion to seal.
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18 **I. LEGAL STANDARD**

19 Courts generally apply a “compelling reasons” standard when considering motions to seal
20 documents. *Pintos v. Pac. Creditors Ass’n*, 605 F.3d 665, 677–78 (9th Cir. 2010). “This standard
21 derives from the common law right ‘to inspect and copy public records and documents, including
22 judicial records and documents.’” *Id.* (quoting *Kamakana v. City & Cnty. of Honolulu*, 447 F.3d
23 1172, 1178 (9th Cir. 2006)). “[A] strong presumption in favor of access is the starting point.”
24 *Kamakana*, 447 F.3d at 1178 (quotation marks and citation omitted). To overcome this strong
25 presumption, the moving party must “articulate compelling reasons supported by specific factual
26 findings that outweigh the general history of access and the public policies favoring disclosure,
27 such as the public interest in understanding the judicial process.” *Id.* at 1178–79 (citations,
28 quotation marks, and alterations omitted). “In general, compelling reasons sufficient to outweigh

1 the public’s interest in disclosure and justify sealing court records exist when such court files
2 might have become a vehicle for improper purposes, such as the use of records to gratify private
3 spite, promote public scandal, circulate libelous statements, or release trade secrets.” *Id.* at 1179
4 (quotation marks and citation omitted). The Court must

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

10 *Id.* (citations, brackets, and quotation marks omitted).

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

23 Finally, records attached to motions that are only “tangentially related to the merits of a
24 case” are not subject to the strong presumption of access. *Ctr. for Auto Safety v. Chrysler Grp.*,
25 LLC, 809 F.3d 1092, 1101 (9th Cir. 2016). Accordingly, parties moving to seal such records need
26 only meet the lower “good cause” standard of Rule 26(c) of the Federal Rules of Civil Procedure.
27 *Id.* at 1097. The “good cause” standard requires a “particularized showing” that “specific
28 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 Cir. 2002) (citation and internal quotation marks
omitted); see also Fed. R. Civ. P. 26(c).

1 **II. DISCUSSION**

2 Defendants seek to seal information contained in (1) Defendants’ motion to dismiss
3 Plaintiff’s second amended complaint; (2) exhibits attached to the motion; and (3) Defendants’
4 reply in support of the motion. See Dkt. Nos. 119, 127. Defendants indicate that the information
5 to be sealed concerns pricing information and other “confidential business information.” Dkt. No.
6 119 at 2. The Court has already agreed to seal some of this information as it appears in Plaintiff’s
7 second amended complaint. See Dkt. Nos. 115–116. Plaintiff also seeks to seal portions of its
8 opposition to Defendants’ motion to dismiss based on Defendants’ claim of confidential
9 information. Dkt. No. 124 at 1–3. Plaintiff takes no position on whether the Court should seal
10 any of the information contained in its opposition and identified by Defendant as confidential. *Id.*
11 at 2–3 (“Ojmar files this administrative motion for the sole purpose of affording Security People
12 the opportunity to defend its confidentially designations as provided by Civil Local Rule 79-
13 5(e).”).

14 The Court applies the “compelling reasons” standard to the documents at issue, as those
15 documents bear more than a tangential relation to the merits of the case. See *Ctr. for Auto Safety*,
16 809 F.3d at 1101. The information identified as sealable by Defendants in the motion to dismiss
17 and supporting exhibits, as well as in Defendants’ reply in support of the motion, satisfies the
18 compelling reasons standard because it is confidential business information. See *In re Qualcomm*
19 *Litig.*, 2017 WL 5176922, at *2.

20 In contrast, Plaintiff’s sealing request does not satisfy the compelling reasons standard
21 because it is not narrowly tailored. Plaintiff seeks to seal entire business agreements that are
22 substantially similar to those agreements that Defendants seek to seal. Compare Dkt. No. 119-1
23 (“Woods Decl.”) Exs. B–D, with Dkt. No. 124-1 (“Callaway Decl.”) Exs. A–C. Defendants,
24 however, sought only to seal portions of those agreements providing specific pricing information.
25 See *id.* Plaintiff does not explain why the Court should seal these documents in their entirety, and
26 Defendants likewise do not explain this discrepancy in their declaration of support for Plaintiff’s
27 request to seal. See Dkt. No. 126.

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1 The Court accordingly **GRANTS** Defendants’ administrative motions to seal, and
 2 **DENIES** in part Plaintiff’s administrative motion to seal. The following summary table sets forth
 3 the Court’s specific rulings as they relate to each document to be sealed:

Motion	Document	Ruling	Portions Sealable	Reason
119	Mot. to Dismiss	GRANTED	Highlighted portions	Confidential Business Information
119	Woods Decl., Ex. A	GRANTED	Highlighted portions	Confidential Business Information
119	Woods Decl., Ex. B	GRANTED	Highlighted portions	Confidential Business Information
119	Woods Decl., Ex. C	GRANTED	Highlighted portions	Confidential Business Information
119	Woods Decl., Ex. D	GRANTED	Highlighted portions	Confidential Business Information
119	Woods Decl., Ex. E	GRANTED	Entire Document	Confidential Business Information
119	Woods Decl., Ex. F	GRANTED	Entire Document	Confidential Business Information
119	Woods Decl., Ex. G	GRANTED	Entire Document	Confidential Business Information
124	Opp. to Mot. to Dismiss	GRANTED	Highlighted portions	Confidential Business Information
124	Callaway Decl.	GRANTED	Highlighted portions	Confidential Business Information
124	Callaway Decl., Ex. A	DENIED	Entire Document	Not narrowly tailored
124	Callaway Decl., Ex. B	DENIED	Entire Document	Not narrowly tailored
124	Callaway Decl., Ex. C	DENIED	Entire Document	Not narrowly tailored
127	Reply in support of Mot. to Dismiss	GRANTED	Highlighted portions	Confidential Business Information

20 Pursuant to Civil Local Rule 79-5(f)(1), those documents filed under seal as to which the
 21 administrative motions are granted in full will remain under seal and the public will have access
 22 only to the redacted versions accompanying the administrative motions.

23 **IT IS SO ORDERED.**

24 Dated: 11/29/2017


 HAYWOOD S. GILLIAM, JR.
 United States District Judge