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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

M.A. MOBILE LTD, a limited liability
company chartered in Dominica; and
MANDANA D. FARHANG,

Plaintiffs,

v.

INDIAN INSTITUTE OF TECHNOLOGY
KHARAGPUR, an Indian Institute of
Technology incorporated under the "Institutes
of Technology Act, 1961"; PARTHA P.
CHAKRABARTI; and DOES 1 through 100,
inclusive,

Defendants.

Case No. C-08-02658-RMW

**ORDER DENYING MOTION TO
SEAL WITHOUT PREJUDICE**

[Re Docket No. 406]

To be sealable a document must be "privileged or protectable as a trade secret or otherwise entitled to protection under the law." L.R. 79-5(a). It is not appropriate to seal documents merely because a party has marked them confidential under the protective order. Furthermore, "compelling reasons" are required to seal documents used in dispositive motions. *See Kamakana v. City & Cnty. of Honolulu*, 447 F.3d 1172, 1179 (9th Cir. 2006). Generally, the type of compelling reason sufficient to outweigh the public's interest in disclosure exists when the court files might be used as a vehicle for improper purposes such as to "gratify private spite, promote public scandal, circulate libelous statements, or release trade secrets." *Id.*

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Defendants have not identified any trade secrets or otherwise sealable material in the documents they propose to seal. The Lin Declaration fails to explain how defendants' "legitimate interest" in its business negotiations establishes that the documents contain trade secrets or otherwise sealable material. Dkt. No. 406-1. Therefore, the court DENIES the motion to seal.

In accordance with the local rules, defendants may e-file the documents, unsealed, within four days or the court will consider the documents withdrawn. General Order 62. If, in good faith, defendants believe they can establish compelling reasons to file the documents under seal consistent with *Kamakana*, they may alternatively file a new declaration within four days establishing with specificity what portions of the documents are sealable and why.

Dated: July 19, 2013


RONALD M. WHYTE
United States District Judge