

1 features of the Cisco Siebel Adapter.¹ Having reviewed the responses and the two declarations,

2 IT IS HEREBY ORDERED that the order to show cause is dissolved.

3 IT IS FURTHER ORDERED that specific portions of the following documents shall remain
4 under seal:

5 (1) Complaint (Docket No. 1): Exhibit A, Pages 23-25; 37-61.

6 (2) Cisco’s Motion to Dismiss (Docket No. 30): Page 5, line 25; Page 6, lines
7 2-4; Page 14, line 6.

8 (3) First Amended Complaint (Docket No. 34): Page 6, line 7, Exhibit A,
9 Pages 23-25; 37-61.

10 (4) Cisco’s Motion to Dismiss the FAC (Docket No. 39): Page 5, lines 9, 11;
11 Page 13, lines 7-8.

12 (5) AMC’s Opposition (Docket No. 41): Page 16, line 28.

13 (6) Cisco’s Reply (Docket No. 46): Page 8, lines 3-4.

14 The Ninth Circuit has explained that “[h]istorically, courts have recognized a ‘general right
15 to inspect and copy public records and documents, including judicial records and documents. This
16 right is justified by the interest of citizens in ‘keeping a watchful eye on the workings of public
17 agencies.’”²

18 “[A] strong presumption in favor of access is the starting point.”³ Under this standard, a
19 party seeking to seal a judicial record relating to a dispositive motion bears the burden of
20 overcoming the strong presumption of public access by articulating “compelling reasons” supported
21 by specific factual findings that outweigh the general history of access and the public policies
22 favoring disclosure.⁴ The court then must “conscientiously balance[] the competing interests” of the

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24 ¹ At the hearing, Cisco also requested that Exhibit A to the First Amended Complaint
25 remain under seal. Exhibit A is a PowerPoint presentation. Cisco has since withdrawn the request that
it remain under seal. *See* Docket No. 60.

26 ² *Kamakana v. City and County of Honolulu*, 447 F.3d 1172, 1179 (9th Cir. 2006) (internal
27 citations omitted).

28 ³ *Id.* at 1178.

⁴ *See id.* at 1178-79.

1 public and the party who seeks to keep certain information and documents under seal.⁵ “[I]f the court
2 decides to seal certain judicial records, it must “base its decision on a compelling reason and
3 articulate the factual basis for its ruling, without relying on hypothesis or conjecture.”⁶

4 Willem Evert Nijenhuis (“Nijenhuis”) is a manager of product marketing in the contact
5 center business unit at Cisco. He is familiar with Cisco’s relationship with AMC and has been the
6 primary point of contact for the two companies. In the declaration, Nijenhuis states that current or
7 prospective OEM partners of Cisco generally are not privy to the fees and royalties paid under other
8 OEM contracts. Cisco has another OEM partner who currently licenses a similar CRM connector
9 and it has not disclosed to that partner the fees and royalties that were paid under the AMC OEM
10 contract. Nijenhuis states that any disclosure of the information paid to one OEM partner could
11 impact the demands of another OEM partner.

12 Nijenhuis also states that disclosure of the fees and royalties paid by Cisco to AMC would
13 allow customers to determine Cisco’s profit margin on the AMC adapters. He contends that the
14 information could affect sales or be used as a negotiation tool on other products. Because Cisco
15 continues to sell AMC Connectors for Microsoft Dynamics CRM, PeopleSoft, and Salesforce under
16 the OEM contract, the pricing information available on pages 23 to 25 of the OEM contract could
17 cause those Cisco customers to demand reductions in current profit margins.

18 Nijenhuis states that the details of the features of the Cisco Siebel Adapter should not be
19 unsealed. While some features of the Cisco Siebel Adapter are available publicly in the company’s
20 marketing materials, the comprehensiveness and level of detail provided in pages 37-61 of the
21 document entitled “AMC Application Adapter for Siebel Cisco Upgrade Document” are not and
22 constitute trade secrets of the company.

23 Nijenhuis concludes that disclosure of either Cisco’s fees and royalties under the AMC OEM
24 contract or the detailed features of the Cisco Siebel Adapter could cause financial harm to the
25 company.

27 ⁵ *See id.*

28 ⁶ *See id.*

1 The court finds that Nijenhuis has shown compelling reasons to seal the limited information
2 regarding (1) Cisco's payment (or contemplated payment) of fees and royalties to AMC in the OEM
3 contract; and (2) the detailed features of the Cisco Siebel Adapter. If the information is not sealed, it
4 might be used for an improper purpose, including the disclosure of Cisco's trade secrets. Nijenhuis
5 explained that disclosure of the contract terms regarding fees and royalties Cisco paid (or was to
6 pay) AMC could affect its current relationship with one OEM partner and could impact negotiations
7 with other OEM partners. Nijenhuis also explained that details regarding features of the Cisco Siebel
8 Adapter should remain under seal because the product continues to be sold on the market and the
9 functionality or limits of the functionality are trade secrets. These explanations rise above any
10 hypothesis or conjecture.

11 No later than January 27, 2012, the parties shall re-file the above documents with only the
12 redactions set forth above. The parties pending administrative motions to file under seal are denied
13 as moot.⁷

14 Dated: 1/20/2012

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16 PAUL S. GREWAL
United States Magistrate Judge

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⁷ See Docket Nos. 46 and 47.