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UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN JOSE DIVISION

WILLIAM AVILES HARDWOOD  
FLOORS,  
  
Plaintiff,  
  
v.  
  
JTEKT CORPORATION, et al.,  
  
Defendants.

Case No. [14-cv-00114-BLF](#)

**ORDER RE PLAINTIFF'S  
ADMINISTRATIVE MOTION TO FILE  
CERTAIN PORTIONS OF AMENDED  
COMPLAINT UNDER SEAL**

[Re: ECF 91, 99, 112]

On July 16, 2014, this Court denied, without prejudice, Plaintiff's administrative motion to file portions of its Amended Class Action and Representative Action Complaint ("FACC") under seal because Plaintiff had not articulated compelling reasons in support of sealing. (*See* Order, ECF 99; Admin. Mot., ECF 91) On July 23, 2014, in compliance with the Court's order, Plaintiff filed a revised declaration and supplemental brief in support of sealing. (Revised Romanenko Decl., ECF 112; Suppl. Brief., ECF 112-1)

On review of the supplemental filing, Plaintiff's reasons for sealing again fall short of compelling. Plaintiff asserts that paragraphs 92 and 94-99 contain information "relevant to an ongoing government investigation," information obtained from a confidential informant concerning "specific conspiratorial conduct that has not been made public," and names of certain employees whose connections to the conspiracy have not been publicly revealed. (Revised Romanenko Decl. ¶¶ 3-5) Plaintiff believes that revealing this information to the public "may jeopardize the investigation." (*Id.* ¶ 6)

The Court notes that "[s]imply mentioning a general category of privilege, without any further elaboration . . . does not satisfy the [compelling reasons] burden." *Kamakana v. City & Cnty. of Honolulu*, 447 F.3d 1172, 1184 (9th Cir. 2006). Plaintiff does not disclose the general

1 subject matter of the “ongoing investigation,” what government agency is conducting the  
2 investigation, how the information sought to be sealed is “relevant” to that investigation, and why  
3 disclosure would jeopardize the investigation. Furthermore, it is not at all clear from Plaintiff’s  
4 filings who designated the information as highly confidential, how Plaintiff obtained the  
5 information, and what interest Plaintiff has in maintaining the confidentiality of the information  
6 sought to be sealed in Paragraphs 92 and 94-99 of the FACC.<sup>1</sup> Each of the cases that Plaintiff  
7 cites in support of sealing information relating to ongoing government investigations is inapposite  
8 to this case because they involved either the government advocating for sealing, *see United States*  
9 *v. Park*, 619 F. Supp. 2d 89 (S.D.N.Y. 2009) *and United States v. Northrop Corp.*, 746 F. Supp.  
10 1002 (C.D. Cal. 1990), or the owner of the confidential information submitting a specific  
11 declaration in support of sealing, (*see* Supp. Br. Exhs. A-B), or both, (*see id.*). To the extent  
12 Plaintiff is seeking to seal information designated confidential by others, the Civil Local Rules  
13 have appropriate provisions for shifting the burden of articulating compelling reasons for sealing  
14 to the designating party. *See* Civ. L.R. 79-5(e).

15 Moreover, the proposed redactions are not narrowly tailored to Plaintiff’s proffered reasons  
16 for sealing. Paragraphs 92, 94-95 and 99 appear too generic to reveal specific details about an  
17 ongoing government investigation. *Compare Park*, 619 F. Supp. 2d at 94 (sealed information was  
18 *specific* concerning defendant’s assistance to the government in ongoing investigation, and sealing  
19 was supported by declaration of person with personal knowledge of the investigation). While  
20 Paragraphs 96-98 appear to contain allegations of specific conduct, Plaintiff has not explained why  
21 the redaction of names and dates is not sufficient to protect the confidential nature of the  
22 information or of Plaintiff’s informant. Overall, without a more robust explanation, the proposed  
23 redactions do not appear narrowly tailored to “protect just the names of particular Defendants’  
24 employees and descriptions of specific conspiratorial conduct that is relevant to a government  
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26 <sup>1</sup> For example, Plaintiff’s vague references to an ongoing government investigation as well as a  
27 confidential informant lead this Court to conflicting inferences about the source of the  
28 information: either the information was obtained from the government or it was obtained through  
Plaintiff’s independent investigation through a confidential informant. If the latter, it is not clear  
how disclosing this information would jeopardize an ongoing government investigation.

1 investigation and not public.” (Suppl. Br. 2)

2 For the foregoing reasons, the Court finds Plaintiff’s supplemental submissions insufficient  
3 to support its request to seal portions of its FACC. The Court will afford Plaintiff another  
4 opportunity to supplement its sealing request in order to address the deficiencies identified in this  
5 order. Within **seven (7) days** of the date of this order, Plaintiff shall file a supplemental  
6 declaration and, if applicable, brief in support of sealing Paragraphs 92 and 94-99 of the FACC.

7 **IT IS SO ORDERED.**

8 Dated: August 13, 2014

  
BETH LABSON FREEMAN  
United States District Judge

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