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UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN JOSE DIVISION

KONINKLIJKE PHILIPS N.V., et al.,  
Plaintiffs,  
v.  
ELEC-TECH INTERNATIONAL CO.,  
LTD., et al.,  
Defendants.

Case No. [14-cv-02737-BLF](#)

**ORDER GRANTING IN PART AND  
DENYING IN PART PLAINTIFFS’  
MOTION TO FILE DOCUMENTS  
UNDER SEAL**

[Re: ECF 84]

**I. INTRODUCTION AND LEGAL STANDARD**

Plaintiffs move to file a number of documents under seal, in full or in part. Specifically, Plaintiffs move to seal: (1) portions of their opposition to the motion to dismiss for lack of subject matter jurisdiction; (2) the entirety of exhibits 1-34 and 39-50 to the James Declaration in support of the opposition to the subject matter jurisdiction motion; (3) portions of their opposition to the motion to dismiss for lack of personal jurisdiction; (4) the entirety of exhibits 1-34 and 39-50 of the James Declaration in support of the opposition to the personal jurisdiction motion;<sup>1</sup> (5) the entirety of exhibits 1 and 2 of the Munkholm Declaration in support of the opposition to the personal jurisdiction motion; and (6) exhibit 1 of the Craven Declaration in support of the opposition to the personal jurisdiction motion.

Counsel for Defendants filed a declaration stating a basis for nearly all of the sealing requests sought by Plaintiffs. *See* Chan Decl. at 1- 11 (a chart describing the specific foundation for each sealing request). The Chan Declaration, however, does not include any basis for sealing exhibits 34, 49, or 50 of the James Declarations. *See id.*

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<sup>1</sup> Exhibits 1-34 and 39-50 to both James Declarations are identical. *See* ECF 88-7; ECF 91-7.

1           The Court has engaged in an individualized examination of each sealing request to  
2 determine if it comports with the law of this circuit and this district’s Civil Local Rules. *See*  
3 *Kamakana v. City & Cnty. of Honolulu*, 447 F.3d 1172, 1180 (9th Cir. 2006) (holding that a party  
4 must make a “particularized showing” of good cause for each individual document it seeks to  
5 seal); *see also In re High-Tech Employee Antitrust Litig.*, 2013 WL 163779, at \*2 (N.D. Cal. Jan.  
6 15, 2013) (“Broad allegations of harm, unsubstantiated by specific examples or articulated  
7 reasoning [are insufficient].”).

8           Courts recognize a “general right to inspect and copy public records and documents,  
9 including judicial records and documents.” *Id.* at 1178. Two standards govern motions to seal  
10 documents, a “compelling reasons” standard, which applies to most judicial records, and a “good  
11 cause” standard, which applies to “private materials unearthed during discovery.” *Cf. Phillips ex*  
12 *rel. Estates of Byrd v. Gen. Motors Corp.*, 307 F.3d 1206, 1213 (9th Cir. 2002). A party that seeks  
13 to seal portions of a motion to dismiss, or any documents filed in support or in opposition to that  
14 motion, must meet the “compelling reasons” standard articulated in *Phillips*.

15           For the reasons outlined below, the Court GRANTS IN PART AND DENIES IN PART  
16 Plaintiffs’ request to file these documents, or portions thereof, under seal.

17 **II. DISCUSSION**

18 **A. Exhibits 1-34 and 39-50 to the James Declarations**

19           These exhibits, which Plaintiffs seek to seal in their entirety, include a series of emails  
20 containing information about Elec-Tech’s business practices, recruitment efforts, and discussions  
21 regarding potential partnerships with other product manufacturers. *See* Exhs. 1-7, 10-20, 23-25,  
22 28-32, 39-42, 44-48. These exhibits also include several contracts that include the confidential  
23 terms and conditions of employment for certain Elec-Tech employees. *See* Exhs. 8-9, 21-22, 43.

24           The Chan Declaration states that the disclosure of these emails and contracts would  
25 publicize highly sensitive and confidential business information, which would result in substantial  
26 competitive harm to Elec-Tech. *See* Chan Decl. ¶ 4. This information could inform competitors of  
27 Elec-Tech’s non-public recruitment efforts, as well as inform its competitors of its non-public  
28 attempts to develop new business relationships with other LED designers and manufacturers. *See*

1 *id.* at ¶ 5.

2 The Court finds that the sealing request for exhibits 1-32 and 39-48 to the James  
3 Declaration meets the “compelling reasons” standard articulated by *Phillips*, and due to the nature  
4 of the documents, and the significant amount of non-public confidential information contained in  
5 them, that Plaintiffs’ request is sufficiently narrowly tailored in conformance with Civil Local  
6 Rule 79-5(d)(1)(C). The Court therefore GRANTS Plaintiffs’ request to seal these exhibits.

7 Plaintiffs’ request to seal exhibits 33, 34, 49, and 50, however, is insufficient for several  
8 reasons. Neither exhibit 33 or 34 is a sensitive email or contract. Rather, both are simply printouts  
9 from corporate websites – exhibit 33 regarding Elec-Tech’s history, and exhibit 34 regarding the  
10 production facilities for a company called Retop LED Display Co., Ltd. This is despite Ms. Chan’s  
11 declaration describing exhibit 33 as an “Email containing confidential and sensitive business  
12 information concerning [Elec-Tech’s] non-public recruiting efforts.” Chan Decl., ECF 97 at 8. The  
13 Chan Declaration does not provide any rationale for sealing exhibit 34. Plaintiff also requests to  
14 seal exhibit 49, which is Plaintiffs’ first set of requests for production of documents. Defendants  
15 do not provide a rationale in favor of sealing this document, and have publicly filed a non-redacted  
16 version of the document. *See* ECF 90-10. None of these three exhibits – 33, 34, and 49 – meet  
17 *Phillips*’ “compelling reasons” standard, and the Court therefore DENIES Plaintiffs’ request to  
18 seal these three exhibits.

19 Plaintiffs further seek to file exhibit 50 under seal. The Chan Declaration, however, fails to  
20 articulate any specific rationale in support of sealing the exhibit. *See* Chan Decl. at 10. Though  
21 much of the document is written in Chinese, the exhibit seems to be a series of emails regarding an  
22 employment contract, similar to the other employment contracts in the James Declarations that the  
23 Court has ordered sealed. Because the Chan Declaration fails to provide a particularized showing  
24 as to why this document should be sealed, however, the Court DENIES the request to seal exhibit  
25 50, without prejudice. *See Kamakana* at 1180.

26 **B. Exhibits 1 and 2 to the Munkholm Declaration**

27 The two exhibits to the Munkholm Declaration that Plaintiffs request to seal in their  
28 entirety consist of contracts regarding the terms and conditions of employment, as well as

1 information regarding non-public recruitment efforts and business practices of Elec-Tech.  
2 Defendants contend that public disclosure of these employment contracts would result in the same  
3 harm as would disclosure of the employment contracts filed as exhibits to the James Declarations.  
4 *Cf.* Chan Decl. ¶ 4.

5 The Court finds that this sealing request meets the “compelling reasons” standard  
6 articulated in *Phillips*, for the same reasons offered above regarding the exhibits to the James  
7 Declarations, and thus GRANTS Plaintiffs’ request to file these two exhibits under seal.

8 **C. Exhibit 1 to the Craven Declaration**

9 This exhibit, which Plaintiffs request to seal in its entirety, also consists of a contract  
10 containing confidential information regarding terms and conditions of employment at Elec-Tech,  
11 as well as including confidential and sensitive information regarding the company’s business  
12 practices and recruitment efforts. Defendants contend that public disclosure of this employment  
13 contract would result in the same harm as the employment contracts filed as exhibits with the  
14 James Declarations. *See* Chan Decl. ¶ 4.

15 The Court finds that this sealing request meets the “compelling reasons” standard  
16 articulated in *Phillips*, for the same reasons offered above regarding the James Declaration  
17 exhibits, and thus GRANTS Plaintiffs’ request to file the exhibit under seal.

18 **D. Portions of the Oppositions to the Motions to Dismiss**

19 Plaintiffs request that portions of their oppositions to the motions to dismiss for lack of  
20 subject matter jurisdiction and personal jurisdiction also be filed under seal. *See* James Decl. at 2.

21 The Chan Declaration provides ample reasons why these references to the sealed exhibits  
22 should be redacted: disclosure of this private, confidential business information could harm Elec-  
23 Tech’s recruitment efforts and could provide its competitors with confidential information  
24 regarding its attempts to forge new commercial relationships with other LED designers,  
25 developers, and manufacturers. *See, e.g.*, Chan Decl. ¶ 5. The Court has reviewed the redactions  
26 sought by Plaintiffs, and finds that Plaintiffs seek to seal only as much information as is necessary  
27 to protect Elec-Tech’s confidential and proprietary information, consistent with Civil Local Rule  
28 79-5(d)(1)(C). The Court therefore GRANTS Plaintiffs’ request to file portions of both

1 oppositions under seal, as outlined in the James Declaration to the Motion to Seal. *See* ECF 84-1  
2 at 2.

3 **III. ORDER**

4 1. Plaintiffs' request to file under seal exhibits 1-32 and 39-48 to the James  
5 Declarations, as well as exhibits 1 and 2 to the Munkholm Declaration and exhibit 1 to the Craven  
6 Declaration, is GRANTED.

7 2. Plaintiffs' request to file under seal exhibits 33, 34, and 49 to the James  
8 Declarations is DENIED.

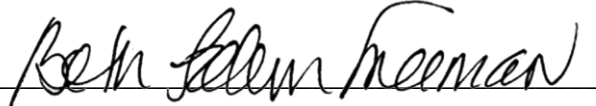
9 3. Plaintiffs' request to file under seal exhibit 50 to the James Declarations is  
10 DENIED WITHOUT PREJUDICE, pending a particularized showing that the document should be  
11 sealed.

12 4. Plaintiffs' request to partially redact the opposition to the motion to dismiss for lack  
13 of subject matter jurisdiction is GRANTED.

14 5. Plaintiffs' request to partially redact the opposition to the motion to dismiss for lack  
15 of personal jurisdiction is GRANTED.

16 **IT IS SO ORDERED.**

17 Dated: February 10, 2015

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19 **BETH LABSON FREEMAN**  
20 United States District Judge

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