

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION**

VIA TECHNOLOGIES, INC. (A
CALIFORNIA CORPORATION), ET AL.,

Plaintiffs,

v.

ASUS COMPUTER INTERNATIONAL, et
al.,

Defendants.

Case No. 14-cv-03586-BLF

**ORDER GRANTING SEALING
MOTION**

This order addresses Plaintiffs’ administrative motion to file under seal an exhibit in support of their summary judgment motion. ECF 247. For the reasons stated below, the motion is GRANTED.

I. LEGAL STANDARD

“Historically, courts have recognized a ‘general right to inspect and copy public records and documents, including judicial records and documents.’” *Kamakana v. City and Cnty. of Honolulu*, 447 F.3d 1172, 1178 (9th Cir. 2006) (quoting *Nixon v. Warner Commc ’ns, Inc.*, 435 U.S. 589, 597 & n.7 (1978)). Consequently, access to motions and their attachments that are “more than tangentially related to the merits of a case” may be sealed only upon a showing of “compelling reasons” for sealing. *Ctr. for Auto Safety v. Chrysler Grp., LLC*, 809 F.3d 1092, 1101-02 (9th Cir. 2016). Filings that are only tangentially related to the merits may be sealed upon a lesser showing of “good cause.” *Id.* at 1097. In addition, sealing motions filed in this district must be “narrowly tailored to seek sealing only of sealable material.” Civil L.R. 79-5(b). A party moving to seal a document in whole or in part must file a declaration establishing that the identified material is “sealable.” Civ. L.R. 79-5(d)(1)(A). “Reference to a stipulation or

1 protective order that allows a party to designate certain documents as confidential is not sufficient
2 to establish that a document, or portions thereof, are sealable.” *Id.*

3 **II. DISCUSSION**

4 The Court has reviewed Plaintiffs’ sealing motion and declarations of Paul Kroeger and
5 Michelle McLeod in support thereof. According to McLeod’s declaration, the exhibit is an
6 excerpt of James Pampinella’s expert report and should be sealed because it contains
7 competitively sensitive information regarding Defendants’ revenues, sales, company structure, and
8 their business relationships. McLeod Decl., ECF 248 ¶¶ 3-5. This sealing motion is not opposed
9 by any party.

10 The Court finds that the “compelling” standard applies, as Plaintiffs’ motion for summary
11 judgment is “related to the merits of a case.” *See Ctr. for Auto Safety*, 809 F.3d at 1097. Because
12 the exhibit to be sealed contains sensitive information that Defendants’ competitors could use to
13 their advantage, they are appropriately sealable.

14 **III. ORDER**

15 For the foregoing reasons, the sealing motion at ECF 247 is GRANTED.

16
17 Dated: April 5, 2017

18 
19 BETH LABSON FREEMAN
20 United States District Judge
21
22
23
24
25
26
27
28