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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

FITBIT, INC.,
Plaintiff,
v.
ALIPHCOM, et al.,
Defendants.

Case No.15-cv-04073-EJD (HRL)

**ORDER GRANTING
ADMINISTRATIVE MOTION TO FILE
UNDER SEAL**

Re: Dkt. No. 110

Pending before this Court is plaintiff Fitbit, Inc.’s (“Fitbit”) Administrative Motion to file under seal portions of certain exhibits to the declaration of Frederick Chung. Dkt. No. 110. This declaration was filed in support of Fitbit’s Motion to Supplement its Infringement Contentions. Dkt. No. 111. For the reasons explained below, the court grants the administrative motion to file under seal.

The courts recognize a common-law right of access to public records, and a strong presumption in favor of public access exists. *Foltz v. State Farm Mut. Auto. Ins. Co.*, 331 F.3d 1122, 1134-35 (9th Cir. 2003). This right of access, however, is not absolute, and can be overridden. *Id.* at 1135. The party seeking to seal judicial records bears the burden of overcoming the presumption in favor of access. *Kamakana v. City and Cnty. of Honolulu*, 447 F.3d 1172, 1178-79 (9th Cir. 2006).

The court applies one of two standards in evaluating motions to seal: the lower good cause standard, which applies to non-dispositive matters, and the more stringent compelling reasons standard, which applies to dispositive matters. *See Luo v. Zynga, Inc.*, No. 13-cv-00186 NC, 2013 WL 5814763, at *1-2 (N.D. Cal., Oct. 29, 2013). A motion to supplement infringement contentions is a non-dispositive motion, and so the good cause standard applies here. *See Finjan Inc. v. Proofpoint, Inc.*, No. 13-cv-05808, 2015 WL 9023164, at *2 (N.D. Cal. Dec. 16, 2015).

United States District Court
Northern District of California

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Under the good cause standard, the party must make a “particularized showing” that “specific prejudice or harm will result” if the document is not filed under seal. *Id.* at *1 (quoting *San Jose Mercury News, Inc. v. U.S. Dist. Court. N. Dist. (San Jose)*, 187 F.3d 1096, 1103 (9th Cir. 1999)).

The court has reviewed Fitbit’s sealing motion and the supporting declaration. The court finds that Fitbit has established good cause to seal the redacted portions of Exhibits 10-18 to the Chung Declaration, as these portions contain highly confidential source code information, the disclosure of which would create a substantial risk of serious harm to defendant Jawbone. Additionally, the court finds that the redactions are narrowly tailored, as required by Civil Local Rule 79-5(b).

The court therefore grants the motion to seal the redacted portions of Exhibits 10-18 to the Chung Declaration.

IT IS SO ORDERED.

Dated: 1/5/2017



HOWARD R. LLOYD
United States Magistrate Judge