

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

PERSONALWEB TECHNOLOGIES LLC,
et al.,

Plaintiffs,

v.

INTERNATIONAL BUSINESS
MACHINES CORPORATION,

Defendant.

Case No. 16-cv-01266-EJD

**OMNIBUS ORDER RE:
ADMINISTRATIVE MOTIONS TO
SEAL**

Re: Dkt. Nos. 365, 367

Before the Court are administrative motions to seal filed by the parties in connection with IBM’s Renewed Motion to Exclude/Strike the Opinions of Dr. Michael Akemann. For the reasons set forth below, the motions are 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

1 identified material is “sealable.” Civ. L.R. 79-5(d)(1)(A). “Reference to a stipulation or
2 protective order that allows a party to designate certain documents as confidential is not sufficient
3 to establish that a document, or portions thereof, are sealable.” *Id.*

4 **II. DISCUSSION**

5 The Court has reviewed each of the parties’ sealing motions and the declarations submitted
6 in support thereof. The Court finds that the parties have articulated compelling reasons and good
7 cause to seal the submitted documents. The Court’s rulings on the sealing requests are set forth in
8 the tables below:

9 **A. Dkt. No. 365**

<u>Materials to be Sealed</u>	<u>Order</u>
Renewed Motion to Exclude/Strike the Opinions of Dr. Michael Akemann, page page 1, line 17; page 2, lines 15, 17-19 and page 3, line 12 – contains confidential financial information related to IBM.	GRANTED.
Exhibit 1 - contains confidential financial information related to IBM.	GRANTED.
Exhibit 2 - contains confidential financial information related to IBM.	GRANTED.
Exhibit 4 - contains confidential financial information related to IBM.	GRANTED.
Renewed Motion to Exclude/Strike the Opinions of Dr. Michael Akemann, page page 1, line 17; page 2, lines 15, 17-19 and page 3, line 12 – contains confidential financial information related to IBM.	GRANTED.

17 **B. Dkt. No. 367**

<u>Materials to be Sealed</u>	<u>Order</u>
Exhibit A to the Christoff Declaration — highly confidential transcript of the August 3, 2017, deposition of Dr. Michael Akemann showing methodology and calculation used by Dr. Akemann in creating his July 31, 2017, Supplement to his expert report	GRANTED.

21 **III. ORDER**

22 For the foregoing reasons, the sealing motions at Dkt. Nos. 365 and 367 are GRANTED.

23 **IT IS SO ORDERED.**

24 Dated:

25

26

27

EDWARD J. DAVILA
United States District Judge

28

United States District Court
Northern District of California

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