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3 **UNITED STATES DISTRICT COURT**
4 **NORTHERN DISTRICT OF CALIFORNIA**
5 **SAN JOSE DIVISION**
6

7 A. FROST, ET AL.,

8 Plaintiffs,

9 v.

10 LG ELECTRONICS INC., et al.,

11 Defendants.

Case No. 16-cv-05206-BLF

**ORDER GRANTING MOTION TO
SEAL**

12
13 Before the Court is Defendants LG Electronics U.S.A., Inc. and LG Display America, Inc.
14 (collectively, “LG Defendants”)’s administrative motion to file under seal portions of their reply in
15 support of the sanction motion. ECF 96. For the reasons stated below, the motion is GRANTED.

16 **I. LEGAL STANDARD**

17 There is a “strong presumption in favor of access” to judicial records. *Kamakana v. City &*
18 *Cnty. of Honolulu*, 447 F.3d 1172, 1178 (9th Cir. 2006) (quoting *Foltz v. State Farm Mut. Auto.*
19 *Ins. Co.*, 331 F.3d 1122, 1135 (9th Cir. 2003)). A party seeking to seal judicial records bears the
20 burden of overcoming this presumption by articulating “compelling reasons supported by specific
21 factual findings that outweigh the general history of access and the public policies favoring
22 disclosure.” *Id.* at 1178-79. Compelling reasons for sealing court files generally exist when such
23 “‘court files might have become a vehicle for improper purposes,’ such as the use of records to
24 gratify private spite, promote public scandal, circulate libelous statements, or release trade
25 secrets.” *Id.* (quoting *Nixon v. Warner Commc’ns, Inc.*, 435 U.S. 589, 598 (1978)). However,
26 “[t]he mere fact that the production of records may lead to a litigant’s embarrassment,
27 incrimination, or exposure to further litigation will not, without more, compel the court to seal its
28 records.” *Kamakana*, 447 F.3d at 1179. Ultimately, “[w]hat constitutes a ‘compelling reason’ is

1 ‘best left to the sound discretion of the trial court.’” *Ctr. for Auto Safety v. Chrysler Grp., LLC*,
2 809 F.3d 1092, 1097 (9th Cir. 2016).

3 “Despite this strong preference for public access, [the Ninth Circuit has] carved out an
4 exception,” *id.* at 1097, for judicial records attached to motions that are “tangentially related to the
5 merits of a case,” *id.* at 1101. Parties moving to seal such records need only make a
6 “particularized showing” under the “good cause” standard of Federal Rule of Civil Procedure
7 26(c). *Kamakana*, 447 F.3d at 1180 (quoting *Foltz*, 331 F.3d at 1138).

8 In this District, parties seeking to seal judicial records must furthermore follow Civil Local
9 Rule 79-5, which requires, *inter alia*, that a sealing request be “*narrowly tailored* to seek sealing
10 *only* of sealable material.” Civil L.R. 79-5(b) (emphasis added). Where the submitting party
11 seeks to file under seal a document designated confidential by another party, the burden of
12 articulating compelling reasons for sealing is placed on the designating party. *Id.* 79-5(e).

13 II. DISCUSSION

14 The Court has reviewed LG Defendants’ sealing motion and declaration of Daniel Birk in
15 support thereof. According to Birk’s declaration, the redacted portions should be sealed because
16 they contain competitively sensitive information regarding the hiring and recruiting practices of
17 LG Defendants. Birk Decl., ECF 96-1 ¶¶ 3-4. This sealing motion is not opposed by any party.

18 The Court finds that the “good cause” standard applies, as LG Defendants’ sanction
19 motion is “tangentially related to the merits of a case.” *See Ctr. for Auto Safety*, 809 F.3d at 1097.
20 Because the redacted portions contain competitive and proprietary information that LG
21 Defendants use for their competitive advantage, they are appropriately sealable under the “good
22 cause” standard.

23 III. ORDER

24 For the foregoing reasons, the sealing motion at ECF 96 is GRANTED.

25
26 Dated: April 3, 2017

27 
28 BETH LABSON FREEMAN
United States District Judge