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UNITED STATES DISTRICT COURT
 SOUTHERN DISTRICT OF CALIFORNIA

HANGINOUT, INC.,
 Plaintiff,
 vs.
 GOOGLE INC.,
 Defendant.

CASE NO. 13-CV-2811 AJB NLS
**UNOPPOSED MOTION TO FILE
 DOCUMENTS UNDER SEAL**
 Judge: Hon. Anthony J. Battaglia

1 Pursuant to Federal Rule of Civil Procedure 26(c), Local Rule 79.2(c), ECF
2 Administrative Policies and Procedures 2(j) and Honorable Anthony J. Battaglia
3 Civil Case Procedures IV, Defendant Google Inc. (“Google”) submits this motion to
4 file under seal limited portions of (i) Google’s Memorandum of Points and
5 Authorities In Support of Its Opposition to Plaintiff Hanginout, Inc.’s Motion for
6 Preliminary Injunction, (ii) the Declaration of Matthew Leske submitted in support
7 thereof; and (iii) the Declaration of Ellery Long submitted in support thereof.

8 **ARGUMENT**

9 Certain limited portions of Google’s Memorandum of Points and Authorities
10 In Support of Its Opposition to Plaintiff Hanginout, Inc.’s Motion for Preliminary
11 Injunction and portions of the Declaration of Matthew Leske and the Declaration of
12 Ellery Long submitted in support thereof contain commercially sensitive business
13 information. Google therefore seeks to seal this information.

14 Google seeks only to seal portions of ¶ 5, line 6; ¶ 8, line 21; ¶ 9, line 24; ¶
15 10, lines 6-7; and ¶ 11, line 9 of the Long Declaration and portions of ¶ 5, lines 2-4;
16 ¶ 6, line 11; ¶ 10, line 8; ¶ 12, lines 7-8, and ¶ 13, line 17 of the Leske Declaration
17 and corresponding information in Google’s Opposition to Hanginout’s Motion for
18 Preliminary Injunction. Google will electronically file a public version of the
19 documents with the confidential information redacted. Therefore, this request is
20 narrowly tailored to protect only the information that is confidential.

21 While the public generally enjoys the right of access to court records, the
22 public’s right to access to court records “is not absolute,” and documents are
23 properly filed under seal where disclosure would harm a party by forcing it to
24 disclose trade secrets or other valuable confidential proprietary business
25 information. *See, e.g., Nixon v. Warner Commc’ns, Inc.*, 435 U.S. 589, 598
26 (1978); *In re Elec. Arts, Inc.*, 298 Fed. App’x 568, 569-70 (9th Cir. 2008).

27 “Where a party shows that its documents contain sources of business
28 information that might harm its competitive standing, the need for public access to

1 the records is lessened.” *Algarin v. Maybelline, LLC*, No. 12CV3000 AJB (DHB),
2 2014 WL690410, at *3 (S.D. Cal. Feb. 21, 2014). Courts must ensure that their
3 records are not used “as sources of business information that might harm a litigant’s
4 competitive standing.” *Nixon*, 435 U.S. at 598. *See also Bauer Bros. LLC v.*
5 *Nike, Inc.*, No. 09-cv-500-WQH-BGS, 2012 WL1899838, at **3-4 (S.D. Cal. May
6 24, 2012) (granting motion to seal non-public financial data); *Davis v. Soc. Serv.*
7 *Coordinators, Inc.*, No. 1:10-cv-023 72-LJO-SKO, 2012 WL 1940677, at *3 (E.D.
8 Cal. May 29, 2012) (noting that “[g]ood cause to seal is generally found where the
9 disclosure of proprietary information could cause a party competitive injury”).

10 When a party seeks to file documents under seal in connection with a
11 dispositive motion, it must present a compelling reason to do so. *Kamakana v.*
12 *City & Cnty. of Honolulu*, 447 F.3d 1172, 1178 (9th Cir. 2006). When the motion
13 is not dispositive, however, a party need only show good cause. *Id.* at 1180.
14 Motions for preliminary injunctions, such as the instant motion, are not generally
15 deemed “dispositive.” *See, e.g., In re Nat’l Sec. Agency Telecomms. Records*
16 *Litigation*, No. 06-1791 VRW, 2007 WL549854, at *4 (N.D. Cal. Feb. 20, 2007)
17 (“In view of the Ninth Circuit’s reasoning, the court concludes that
18 a preliminary injunction motion is not dispositive because, unlike a motion for
19 summary adjudication, it neither resolves a case on the merits nor serves as a
20 substitute for trial.”)

21 Publicly filing the information that Google seeks to file under seal would put
22 Google at a competitive disadvantage because it would reveal information about
23 Google’s advertising expenditures, the scope and reach of certain of its products,
24 and the amount of time and money invested into creating certain of its products.
25 (Leske Declaration in Support of Unopposed Motion to Seal ¶¶ 2-5; Long
26 Declaration in Support of Unopposed Motion to Seal ¶¶ 2-4.) Therefore, there is
27 good cause to seal this information.
28

1 Google's counsel has conferred with Plaintiff's counsel and Plaintiff's
2 counsel has agreed not to oppose this motion to seal.

3 For the foregoing reasons, Google respectfully requests that the Court grant
4 this motion to file under seal portions of ¶ 5, line 6; ¶ 8, line 21; ¶ 9, line 24; ¶ 10,
5 lines 6-7; and ¶ 11, line 9 of the Long Declaration and portions of ¶ 5, lines 2-4; ¶ 6,
6 line 11; ¶ 10, line 8; ¶ 12, lines 7-8, and ¶ 13, line 17 of the Leske Declaration and
7 corresponding information in Google's Opposition to Hanginout's Motion for
8 Preliminary Injunction.

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DATED: March 21, 2014

Respectfully submitted,

/s/ Margret M. Caruso
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& SULLIVAN, LLP

Attorneys for Defendant Google Inc.

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CERTIFICATE OF SERVICE

I hereby certify that on March 21, 2014, I will cause to be filed the foregoing **UNOPPOSED MOTION TO FILE DOCUMENTS UNDER SEAL** and the declarations of Matthew Leske and Ellery Long submitted in support thereof with the Clerk of the Court using the CM/ECF system, which will then send a notification of such filing to counsel for Plaintiff Hanginout, Inc.

QUINN EMANUEL URQUHART &
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By /s/ Margret M. Caruso
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