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8 UNITED STATES DISTRICT COURT
9 SOUTHERN DISTRICT OF CALIFORNIA
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11 SAN DIEGO COMIC CONVENTION, a
12 California non-profit corporation,
13 Plaintiff,

14 v.

15 DAN FARR PRODUCTIONS, a Utah
16 limited liability company; DANIEL
17 FARR, an individual; and BRYAN
18 BRANDENBURG, an individual,
19 Defendants.

Case No.: 14-cv-1865 AJB (JMA)

ORDER:

**(1) GRANTING PLAINTIFF'S
REQUEST TO SEAL; AND**

**(2) GRANTING PLAINTIFF'S
PROPOSED REDACTIONS**

(Doc. Nos. 495, 497, 499, 500)

20
21 On April 10, 2018, the Court denied without prejudice fourteen motions to seal filed
22 by both Plaintiff and Defendants in relation to their post-trial motions. (Doc. Nos. 422, 424,
23 430, 434, 437, 453, 456, 460, 463, 465, 472, 475, 478, 482.) The Court then instructed both
24 parties to either submit new declarations stating the compelling reasons in favor of sealing
25 the documents or propose narrowly tailored redactions. (Doc. No. 491 at 6.) In response,
26 Defendants did not file any additional declarations and Plaintiff filed four declarations.
27 (Doc. Nos. 495, 497, 499, 500.) As will be explained in greater detail below, the Court
28 **GRANTS** Plaintiff's request to seal and its proposed redactions.

1 **DISCUSSION**

2 Plaintiff’s four declarations request the following: (1) that the Court direct
3 Defendants to file redacted versions of Exhibits three and four to Defendants’ estoppel
4 motion, (Doc. No. 495); (2) that the Court seal Exhibit E to the declaration of L. Rex Sears
5 in support of Defendants’ motion for new trial of validity and infringement, (Doc. No.
6 497); (3) that the Court direct Defendants to file a redacted version of Exhibit F to the
7 declaration of L. Rex Sears in support of Defendants’ motion for new trial of validity and
8 infringement, (*Id.*); (4) that the Court direct Defendants to file redacted versions of Exhibit
9 3 and 4 to Defendants’ unclean hands motion, (Doc. No. 499); and (5) that the Court allow
10 Plaintiff to file a redacted version of its memorandum of points and authorities in
11 opposition to Defendants’ motion for ruling on estoppel defense, (Doc. No. 500).

12 There is a presumptive right of public access to court records based upon the
13 common law and the first amendment. *See Nixon v. Warner Commc’ns, Inc.*, 435 U.S. 589,
14 597 (1978). Thus, “[u]nless a particular court record is one traditionally kept secret, a
15 strong presumption in favor of access is the starting point.” *Kamakana v. City & Cty. of*
16 *Honolulu*, 447 F.3d 1172, 1178 (9th Cir. 2006) (internal quotation marks omitted). In order
17 to overcome this strong presumption, a party must “articulate[] compelling reasons
18 supported by specific factual findings that outweigh the general history of access and the
19 public policies favoring disclosure[.]” *Id.* at 1178–79. Parties seeking to seal documents in
20 a dispositive motion must meet the high threshold requiring “compelling reasons” with
21 specific factual findings to support sealing. *Id.* at 1178–80. The “compelling reasons” test
22 requires showing more than just “good cause.” *Id.* at 1180.

23 As to Exhibit E to the declaration of L. Rex Sears in support of Defendants’ motion
24 for new trial, the Court finds that Plaintiff’s new declaration has presented compelling
25 reasons that justify sealing the entire exhibit—Doc. No. 344. (Doc. No. 497 at 2–3.) As
26 Plaintiff points out, the motion is replete with references to confidential settlement
27 discussions, negotiations between Plaintiff and a third party concerning a potential license
28 for Plaintiff’s trademarks, and direct quotations from emails referencing the same private

1 discussions. (*Id.* at 2.) It is without question that courts have sealed confidential settlement
2 agreements and negotiations. *See Prosurance Group, Inc. v. Liberty Mutual Group, Inc.*,
3 No. 10-CV-02600-LHK, 2011 WL 704456, at *1 (N.D. Cal. Feb. 18, 2011) (sealing
4 documents that discussed or disclosed the terms of an agreement); *see also Brightwell v.*
5 *McMillan Law Firm*, No. 16-CV-1696 W (NLS), 2017 WL 5885667, at *1–2 (S.D. Cal.
6 Nov. 29, 2017) (sealing email correspondences that discussed the terms of an underlying
7 settlement). Accordingly, Plaintiff’s motion to seal Exhibit E is **GRANTED**.

8 Next, the Court turns to Plaintiff’s various requests to redact certain documents. The
9 proposed redactions are as follows:

10 (1) redact all minutes except for one specific entry in Exhibit F to the Declaration of
11 L. Rex Sears in support of Defendants’ motion for new trial of validity and
12 infringement. (Doc. No. 497 at 4.) Exhibit F consists of excerpts from the deposition
13 of David Glanzer. (*Id.*)

14 (2) direct Defendants to file redacted versions of Exhibits 3 and 4 to Defendants’
15 motion for ruling on estoppel defense. (Doc. No. 495 at 2.) Exhibit 3 consists of
16 minutes from Plaintiff’s Board of Directors Meetings and Plaintiff points out that
17 Defendants only cite to Item #5 in their motion. (*Id.*) Exhibit 4 is an August 18, 2011
18 email exchange and Defendants cite only to one portion of the exhibit in their
19 motion. (*Id.* at 3.) The remainder of the email exchange includes confidential
20 discussions and immaterial issues to the present lawsuit. (*Id.* at 3–4.)

21 (3) direct Defendants to file redacted versions of Exhibits 3 and 4 to Defendants’
22 unclean hands motion. (Doc. No. 499 at 2.) These two exhibits are identical to the
23 foregoing exhibits and the redactions Plaintiff requests are the same.

24 (4) narrowly tailored redactions to Plaintiff’s memorandum of points and
25 authorities in opposition to Defendants’ motion for ruling on estoppel defense. (Doc.
26 No. 500 at 2.)

27 In general, the Court finds the proposed redactions are narrowly tailored and that
28 Plaintiff has provided a particularized showing that specific harm will result if the

1 information is made publicly available. Moreover, Defendants do not oppose the
2 redactions. Accordingly, the Court **GRANTS** the proposed redactions detailed in
3 Plaintiff's declarations.

4 **CONCLUSION**

5 As explained above, the Court **GRANTS** Plaintiff's request to seal Exhibit E to the
6 Declaration of L. Rex. Sears in support of Defendants' motion for new trial of validity and
7 infringement. (Doc. No. 497 at 2.) The **SEAL CLERK** is **ORDERED** to file Exhibit E
8 under seal. (Doc. No. 435-1.)


9 Additionally, the Court **DIRECTS** Defendants to file **redacted versions** of (1)
10 Exhibit F to the Declaration of L. Rex. Sears in support of Defendants' motion for new trial
11 of validity and infringement, (Doc. Nos. 435-2), and (2) Exhibits 3 and 4 to Defendants'
12 estoppel and unclean hands motions, (Doc. Nos. 426-2, 426-3, 438-3, 438-4). Defendants
13 are to file the redactions as provided in Plaintiff's declarations. Finally, Plaintiff is
14 **DIRECTED** to file the **redacted version** of its memorandum of points and authorities in
15 opposition to Defendants' motion for ruling on estoppel defense. (Doc. No. 464.)

16 The Court **ORDERS** the parties to file within **seven days** documents that comply
17 with the Court's determinations above.

18 As to the remainder of the motions to seal, as neither party has filed additional
19 declarations requesting that the documents be sealed, the Court's April 10, 2018 Order
20 denying the motions to seal still stands. Thus, the **SEAL CLERK** is **ORDERED** to
21 publicly docket the following documents: Doc. Nos. 423, 423-1, 426, 426-1, 426-4 through
22 426-8, 431, 438, 438-1, 438-2, 438-5, 454, 454-1, 457, 461, 466, 473, 473-1, 476, 479,
23 483.

24 **IT IS SO ORDERED.**

25 Dated: June 5, 2018

26 
27 Hon. Anthony J. Battaglia
28 United States District Judge