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8 UNITED STATES DISTRICT COURT
9 SOUTHERN DISTRICT OF CALIFORNIA
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11 FLOWRIDER SURF, LTD., et al.,
12 Plaintiffs,
13 v.
14 PACIFIC SURF DESIGNS, INC.,
15 Defendant.

Case No.: 3:15-cv-01879-BEN-BLM

**ORDER GRANTING DEFENDANT’S
MOTION TO FILE EXHIBITS
UNDER SEAL**

[ECF No. 124]

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19 Defendant Pacific Surf Design, Inc. (“PSD”) has moved to file under seal Exhibits
20 Q, R, and S to the Supplemental Declaration of Justin M. Barnes in support of
21 Defendant’s Reply Brief in support of its Motion to Dismiss for Lack of Subject Matter
22 Jurisdiction. (Docket No. 124.)

23 The exhibits are license agreements and a spreadsheet listing royalty revenues.
24 PSD explains that either Plaintiffs or third party Aquatic Development Group, Inc.
25 (“ADG”) have designated these exhibits “CONFIDENTIAL-FOR COUNSEL ONLY”
26 under the Protective Order because they contain “information regarding the royalties and
27 other financial terms for the sale of products, as well as confidential information
28 regarding the specifications for the products.” (*See id.*)

1 “[C]ompelling reasons sufficient to outweigh the public’s interest in disclosure and
2 justify sealing court records exist when such court files might . . . become a vehicle for
3 improper purposes, such as the use of records to . . . release trade secrets.” *Kamakana v.*
4 *City & Cnty. of Honolulu*, 447 F.3d 1172, 1179 (9th Cir. 2006). A “trade secret may
5 consist of any formula, pattern, device or compilation of information which is used in
6 one’s business, and which gives him an opportunity to obtain an advantage over
7 competitors who do not know or use it.” Restatement of Torts § 757 cmt. b. Royalty
8 rates fall within the definition of trade secrets, *In re Elec. Arts*, 298 F. App’x 568, 569
9 (9th Cir. 2008), “because disclosure could create an asymmetry of information in the
10 negotiation of future licensing deals,” *Apple, Inc. v. Samsung Elec. Co., Ltd.*, No. 11-cv-
11 01846-LHK, 2012 WL 4933287, at *2 (N.D. Cal. Oct. 16, 2012). And, clearly, product
12 specifications qualify as trade secrets.

13 Accordingly, PSD’s motion to seal is **GRANTED**. The Clerk is directed to file the
14 documents lodged at Docket No. 125 under seal.

15 **IT IS SO ORDERED.**

16 Dated: December 19, 2016

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18 Hon. Roger T. Benitez
19 United States District Judge
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