

1 bears the burden of overcoming that presumption. *Pintos v. Pac. Creditors Ass'n*, 605 F.3d 665, 678
2 (9th Cir. 2010) (quoting *Kamakana*, 447 F.3d at 1178). Parties “who seek to maintain the secrecy of
3 documents attached to dispositive motions must meet the high threshold of showing that ‘compelling
4 reasons’ support secrecy.” *Kamakana*, 447 F.3d at 1180.¹ Those compelling reasons must outweigh the
5 competing interests of the public in having access to the judicial records and understanding the judicial
6 process. *Id.* at 1178-79; *see also Pintos*, 605 F.3d at 679 & n.6 (court must weigh “relevant factors,”
7 including the public’s interest in understanding the judicial process). The Ninth Circuit has indicated
8 that “‘compelling reasons’ sufficient to outweigh the public’s interest in disclosure and justify sealing
9 court records exist when such ‘court files might have become a vehicle for improper purposes,’ such as
10 the use of records to . . . release trade secrets.” *Kamakana*, 447 F.3d at 1179.

11 **II. ANALYSIS**

12 In his Declaration, Israelewicz represents that Spectrum withdraws its confidentiality designation
13 with respect to the portions redacted in Defendant’s opposition to Plaintiffs’ Motion for Summary
14 Judgment. Docket No. 262, at 3.

15 Additionally, in his Declaration, Izraelewicz represents that Exhibit 14 attached to the
16 Declaration of John R. Lanham (“Exhibit 14”) is the rebuttal expert report of Spectrum’s validity expert,
17 Dr. Richard G. Moran. Docket No. 262, at 2. Dr. Moran is Spectrum’s principal expert on the issue of
18 the validity of Spectrum’s patent. *Id.* Izraelewicz further represents that, if this report were to be
19 disclosed at this point, such disclosure could injure Plaintiffs’ competitive posture in a companion case
20 (the “Ben Venue Labs Litigation,” 2:14-cv-980-GMN-PAL) that involves the same, or similar, invalidity
21 arguments as this litigation. *Id.* Izraelewicz requests that the Court seal this expert report until such
22 time as Plaintiffs have served expert reports in the Ben Venue Litigation. *Id.* Izraelewicz further notes
23 that the Court previously sealed this report in the instant case, based on the same argument. *Id.; see also*

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26 *Kamakana* and *Foltz* involve non-parties’ attempts to obtain sealed court documents. The same
27 analysis and standards apply to a party’s motion to seal. *See Pintos*, 605 F.3d at 679 n.5; *see also*
28 *Kamakana*, 447 F.3d at 1182 n.9 (for the case before it, noting that “[t]he effective bottom line is that
the district court was determining whether documents should be sealed”).

1 Docket No. 242, at 3. Additionally, Izraelewicz submits that Plaintiffs “will file Exhibit 14 in the public
2 record one day after Plaintiffs serve Dr. Moran’s expert statement upon opposing counsel in the Ben
3 Venue litigation.” Docket No. 262, at 2-3.

4 The Court has reviewed Exhibit 14 and concludes that it contains information that could injure
5 Plaintiffs’ competitive posture in the Ben Venue Litigation, which warrants keeping it sealed at this
6 time. Further, the Court finds that both good cause and compelling reasons exist to seal this information
7 that overcome the presumption of public access, and that Exhibit 14 cannot be easily redacted while
8 leaving meaningful information available to the public.²

9 **III. CONCLUSION**

10 **IT IS ORDERED THAT** for the reasons discussed more fully above and for good cause shown,
11 the Court **GRANTS** in part and **DENIES** in part Defendant’s motion to seal. Docket No. 249.

12 **IT IS FURTHER ORDERED THAT** the motion to seal is **DENIED** in part, as to the portions
13 redacted in Defendant’s opposition to Plaintiffs’ Motion for Summary Judgment. The Court hereby
14 **ORDERS** that the opposition (Docket No. 245) shall be unsealed.

15 **IT IS FURTHER ORDERED THAT** the motion to seal is **GRANTED** in part, as to Exhibit
16 14 to the Declaration of John R. Lanham, filed in support of Defendant’s opposition to Plaintiffs’
17 Motion for Summary Judgment (Docket No. 247). Docket No. 248 shall therefore remain under seal
18 at this time. The Court further **ORDERS** that, within one day of serving the opposing party in the Ben
19 Venue Litigation with this report, Plaintiffs must file Exhibit 14 on the public docket in the instant case.

20 IT IS SO ORDERED.

21 DATED: August 18, 2014.

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NANCY J. KOPPE
United States Magistrate Judge

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27 Though Mr. Izraelewicz failed to represent to the Court in his Declaration whether Exhibit 14
28 could be easily redacted while leaving meaningful information available to the public, the Court has
already engaged in this analysis, Docket No. 242, at 3, and the Court makes the same finding here.