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7 UNITED STATES DISTRICT COURT
8 WESTERN DISTRICT OF WASHINGTON
9 AT SEATTLE

10 PHILIPS NORTH AMERICA LLC,
11 et al.,

12 Plaintiffs,

13 v.

14 SUMMIT IMAGING INC., et al.,

15 Defendants.

CASE NO. C19-1745JLR

ORDER ON MOTIONS TO SEAL

16 **I. INTRODUCTION**

17 Before the court are three motions to seal filed by Plaintiffs Philips North
18 America, LLC, Koninklijke Philips N.V., and Philips India, Ltd.’s (collectively,
19 “Philips”) and Defendants Summit Imaging Inc. and Lawrence R. Nguyen (collectively,
20 “Summit”): (1) Philips’s motion to seal documents filed in support of its motion for
21 partial summary judgment and motions to exclude (Philips MTS (Dkt. # 134)); (2)
22 Summit’s motion to seal its motion for summary judgment (Summit 1st MTS (Dkt.

1 # 181); and (3) Summit’s motion to seal documents filed in support of its motion to
2 exclude (Summit 2d MTS (Dkt. # 136)). Neither party opposes the sealing of any of the
3 documents designated as confidential by the other party. (*See* Summit 1st MTS at 2-3
4 (taking “no position” towards Philips’s documents); Summit 2d MTS at 3 (same); Philips
5 MTS Resp. (Dkt. # 195); Summit MTS Resp. (Dkt. # 193).) The court has considered the
6 motions, the submissions concerning the motions, the relevant portions of the record, and
7 the applicable law. Being fully advised,¹ the court GRANTS Philips’s motion to seal and
8 Summit’s motion to seal documents filed in support of its motion to exclude. It
9 additionally GRANTS in part Summit’s motion to seal documents filed in support of its
10 motion for summary judgment with the exception of three documents.

11 **II. BACKGROUND**

12 On April 5, 2021, the parties each filed dispositive motions and various motions to
13 exclude. (*See generally* Dkt.) Philips additionally moved to seal its motion for partial
14 summary judgment; its three motions to exclude; and various documents filed in support
15 of the four motions. (Philips MTS at 1.) Summit moved to seal its motion for summary
16 judgment; its motion to exclude; and various documents filed in support of both motions.
17 (Summit 1st MTS at 1; Summit 2d MTS at 1-2.) Both parties move to seal documents
18 that had been designated confidential pursuant to their stipulated protective order.

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21 ¹ No party requests oral argument (*see* Philips MTS at 1; Summit 1st MTS at 1; Summit
22 2d MTS at 1; Philips MTS Resp. at 1; Summit MTS Resp. at 1), and oral argument would not be
helpful to the disposition of the motions, *see* Local Rules W.D. Wash. LCR 7(b)(4).

1 (Philips MTS at 2-3; Summit 1st MTS at 3-5; Summit MTS Resp. at 1, App. A; *see also*
2 Protective Order (Dkt. # 40).)

3 **III. ANALYSIS**

4 When deciding a motion to seal, courts “start with a strong presumption in favor
5 of access to court records.” *Foltz v. State Farm Mut. Auto. Ins. Co.*, 331 F.3d 1122, 1135
6 (9th Cir. 2003) (citing *Hagestad v. Tragesser*, 49 F.3d 1430, 1434 (9th Cir. 1995)). This
7 presumption, however, “is not absolute and can be overridden given sufficiently
8 compelling reasons for doing so.” *Id.* (citing *San Jose Mercury News, Inc. v. U.S. Dist.*
9 *Ct. N. Dist. (San Jose)*, 187 F.3d 1096, 1102 (9th Cir. 1999)). The standard for
10 determining whether to seal a record depends on the filing to which the sealed record is
11 attached. *See id.* at 1136-37. Because the sealed documents at issue here are attached to
12 motions that are “more than tangentially related to the merits of [this] case,” the court
13 applies the compelling reasons standard to determine if sealing is appropriate. *See Ctr.*
14 *for Auto Safety v. Chrysler Grp.*, 809 F.3d 1092, 1098-102 (9th Cir. 2016).

15 Under the compelling reasons standard, the party seeking to seal a judicial record
16 bears the burden of showing that “compelling reasons supported by specific factual
17 findings . . . outweigh the general history of access and the public policies favoring
18 disclosure.” *Kamakana v. City & Cnty. of Honolulu*, 447 F.3d 1172, 1178-79 (9th Cir.
19 2006). If a court decides to seal a record, it must “base its decision on a compelling
20 reason and articulate the factual basis for its ruling.” *Id.* at 1179 (quoting *Hagestad*, 49
21 F.3d at 1434). The final determination of what constitutes a compelling reason is “best
22 left to the sound discretion of the trial court.” *Nixon v. Warner Commc’ns, Inc.*, 435 U.S.

1 589, 599 (1978). “In general, ‘compelling reasons’ sufficient to outweigh the public’s
2 interest in disclosure and justify sealing court records exist when such ‘court files might
3 have become a vehicle for improper purposes,’ such as the use of records to . . . release
4 trade secrets.” *Id.* (quoting *Nixon*, 435 U.S. at 598).

5 Trade secrets can be “any formula, pattern, device or compilation of information
6 which is used in one’s business, and which gives him an opportunity to obtain an
7 advantage over competitors who do not know or use it.” *Wetzel v. CertainTeed Corp.*,
8 No. C16-1160JLR, 2019 WL 1236859, at *6 (W.D. Wash. Mar. 18, 2019). Proprietary
9 business information that “if released to the public, has the potential to harm the parties’
10 positions in the industry” has been found to satisfy the compelling reason standard.
11 *BitTitan, Inc. v. Skykick, Inc.*, No. C15-0754RSM, 2015 WL 12159149, at *1 (W.D.
12 Wash. Aug. 14, 2015). Similarly, technical documents that “describe the components
13 and internal operations” of proprietary technology have also been kept under seal when
14 they contain “business and proprietary interests that would harm” the entity if publicly
15 disclosed. *Genuine Enabling Tech. LLC. v. Nintendo Co., Ltd.*, No. C19-0351RSM, 2020
16 WL 4366181, at *1-2 (W.D. Wash. July 30, 2020).

17 Additionally, in the Western District of Washington, parties seeking to file
18 documents under seal must follow the procedure laid out in Local Rule 5(g). *See* Local
19 Rules W.D. Wash. LCR 5(g). Pursuant to Local Rule 5(g), a party filing a motion to seal
20 must include “a certification that the party has met and conferred with all other parties in
21 an attempt to reach agreement on the need to file the document[s] under seal.” *Id.* LCR

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1 5(g)(3)(A). The party seeking to seal the documents must also explain the bases for
2 requiring the relief. *Id.* LCR 5(g)(3)(B).

3 The court finds that the parties have met and conferred pursuant to Local Rule 5(g)
4 and that there are compelling reasons to seal the documents at issue. The documents that
5 the parties seek to maintain under seal contain the parties' confidential and proprietary
6 source code or trade secrets; technical documents that describe internal operations of the
7 parties' technology and procedures; and business documents that contain proprietary
8 financial or accounting information. (*See* Philips MTS at 1; Summit 1st MTS at 1;
9 Philips MTS Resp. at 1-2; Summit MTS Resp. at App. A (listing documents).) The court
10 agree with the parties that the release of such information would potentially harm the
11 parties' position in the industry. *See Wetzel*, 2019 WL 1236859, at *6. Moreover,
12 neither party opposes the sealing of the other's identified documents. (*See* Summit 1st
13 MTS at 2-3 (taking "no position" towards Philips's documents); Summit 2d MTS at 3
14 (same); Philips MTS Resp.; Summit MTS Resp.)

15 However, Philips has identified three documents erroneously identified as
16 confidential. (Summit MTS Resp. at 1 n.1 (citing Shewmake Decl. (Dkt. # 163) ¶ 25, Ex.
17 W; *id.* ¶ 27, Ex. Y; *id.* ¶ 30, Ex. BB).) Summit has no objection to unsealing those
18 documents. (Summit MTS Reply (Dkt. # 217) at 1.) Accordingly, the court GRANTS
19 the parties' motions with the exception of the three documents found at docket numbers
20 163-15 (Ex. W), 163-17 (Ex. Y) and 163-19 (Ex. BB).

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1 **IV. CONCLUSION**

2 For the foregoing reasons, the court GRANTS Philips’s motion to seal (Dkt.
3 # 134) and Summit’s motion to seal documents filed in support of its motion to exclude
4 (Dkt. # 136). The court DIRECTS the Clerk to maintain the seal on all documents
5 identified within those two motions. The court additionally GRANTS in part Summit’s
6 motion to seal documents filed in support of its motion for summary judgment (Dkt.
7 # 181). The court DIRECTS the Clerk to remove the seal on Exhibits W, Y and BB to
8 the declaration of Thomas Shewmake (Dkt. # 163). All other documents shall remain
9 under seal as filed.

10 Dated this 27th day of April, 2021.

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13 JAMES L. ROBART
United States District Judge
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